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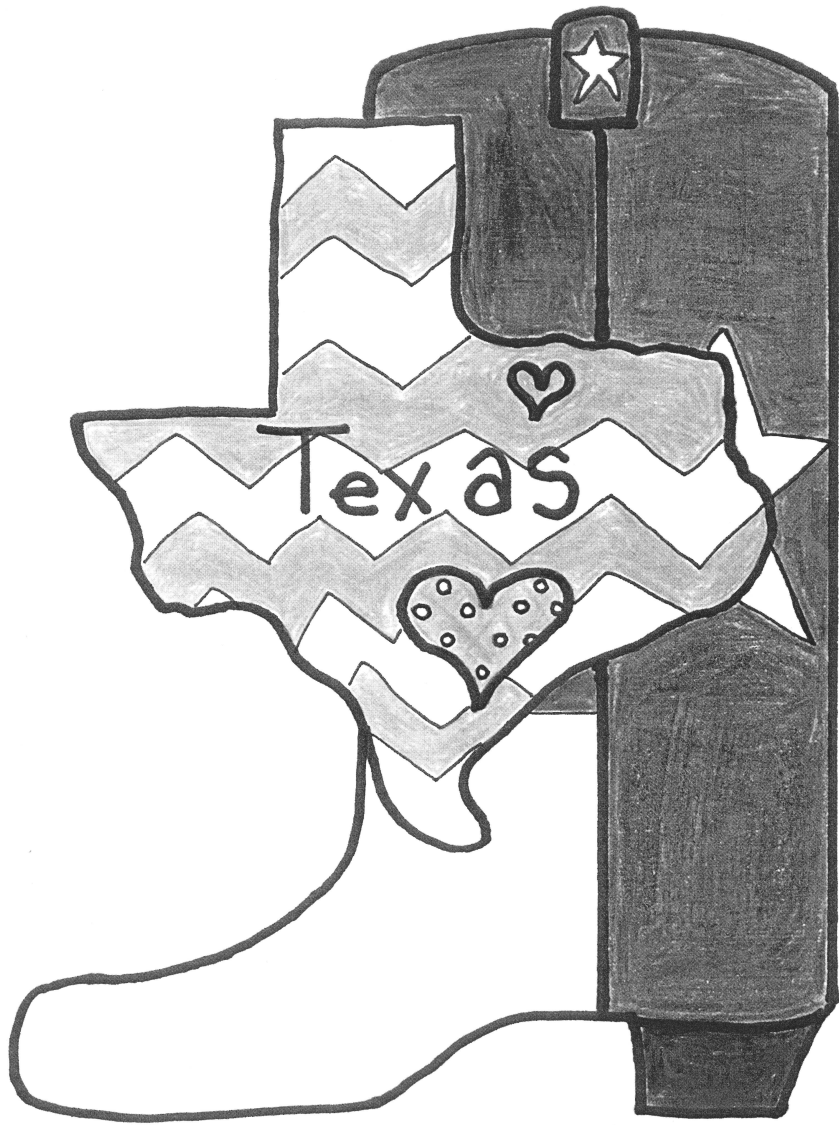
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THE GOVERNOR

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

Appointments

Appointments for May 19, 2022

Appointed to the Employees Retirement System of Texas Board of Trustees for a term to expire August 31, 2024, John R. Rutherford of Houston, Texas (replacing Cydney C. Donnell of Fredericksburg, whose term expired).

Appointments for May 24, 2022

Appointed as the San Jacinto County Criminal District Attorney for a term to expire December 31, 2022, or until his successor shall be duly elected and qualified, Brandon T. "Todd" Dillon of Coldspring, Texas (replacing Robert H. Trapp of Coldspring, who resigned).

Greg Abbott, Governor

TRD-202202040



Proclamation 41-3903

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on March 18, 2022, as amended on March 21 and March 27, 2022, certifying that wildfires that began on February 23, 2022, posed an imminent threat of widespread or severe damage, injury, or loss of life or property in Andrews, Aransas, Archer, Bee, Bell, Blanco, Borden, Bosque, Brewster, Brooks, Brown, Cameron, Coke, Coleman, Comanche, Concho, Cooke, Crane, Crockett, Culbertson, Dawson, Dimmit, Duval, Eastland, Ector, Edwards, Erath, Gaines, Garza, Grayson, Hemphill, Hidalgo, Hood, Howard, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kimble, Kleberg, Live Oak, Martin, Mason, Maverick, McCulloch, Medina, Menard, Midland, Nueces, Palo Pinto, Parker, Pecos, Potter, Presidio, Randall, Reagan, Real, Refugio, Roberts, Runnels, Starr, Terrell, Tom Green, Upton, Wichita, Willacy, Williamson, Winkler, Wise, Zapata, and Zavala counties; and

WHEREAS, those same conditions continue to exist in these counties;

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 17th day of May, 2022.

Greg Abbott, Governor

TRD-202201955



Proclamation 41-3904

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 in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for 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;

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 Bee, Brewster, Brooks, Chambers, Colorado, Crane, Crockett, Culbertson, DeWitt, Dimmit, Duval, Edwards, Frio, Galveston, Goliad, Gonzales, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Patricio, 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 in subsequent proclamations, 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 22nd day of May, 2022.

Greg Abbott, Governor

TRD-202202000



Proclamation 41-3905

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 22nd day of May, 2022.

Greg Abbott, Governor

TRD-202202001



THE ATTORNEY GENERAL

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

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

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

Opinions

Opinion No. KP-0406

The Honorable Briscoe Cain

Chair, House Committee on Elections

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a school district may withhold medical or health information about a minor child from the child's parent or legal guardian (RQ-0460-KP)

S U M M A R Y

Chapter 26 of the Education Code expressly provides that parents are entitled to the health information of their child, and the Family Educational Rights and Privacy Act grants parents the right to inspect and review the education records of their children, including health information.

Parents possess a fundamental right to make decisions concerning the care, custody, and control of their child, and school districts and offi-

cial must work in partnership with parents in furtherance of the child's education. Failing to work with parents and provide requested information about a student could subject the school district to legal challenges, civil liability, and financial loss.

Title IX prohibits educational institutions from discriminating against students on the basis of sex. Nothing in the text of Title IX, nor in the regulations adopted pursuant to that federal statute, discusses parental access to information or authorizes a school district to withhold medical or health information about a minor child from the child's parent or legal guardian.

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

TRD-202202014

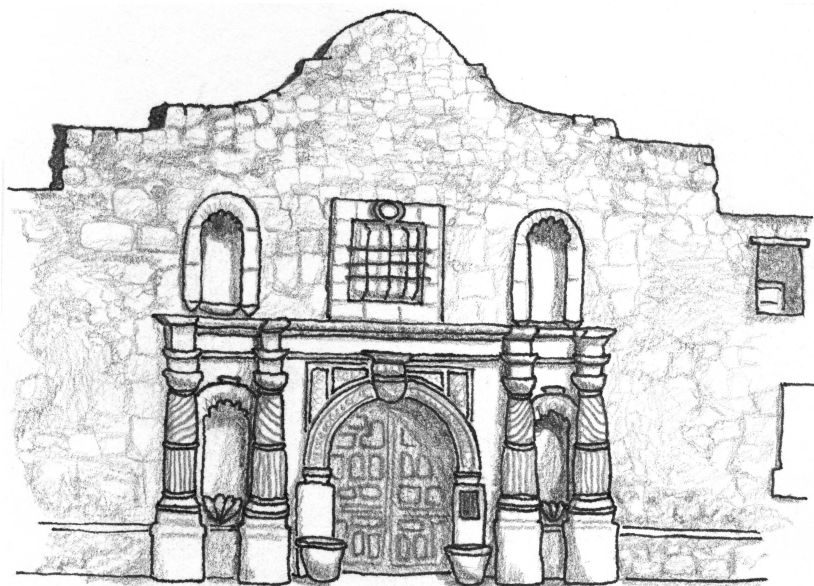
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: May 24, 2022





EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 448. STANDARD OF CARE SUBCHAPTER F. PERSONNEL PRACTICES AND DEVELOPMENT

25 TAC §448.603

The Department of State Health Services is renewing the effectiveness of emergency amended §448.603 for a 60-day period. The text of the emergency rule was originally published in the February 4, 2022, issue of the *Texas Register* (47 TexReg 385).

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201956

Nycia Deal

Attorney

Department of State Health Services

Original effective date: January 22, 2022

Expiration date: July 20, 2022

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



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 500. COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING SUBCHAPTER B. END STAGE RENAL DISEASE FACILITIES

26 TAC §500.21

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.21 for a 60-day period. The text of the emergency rule was originally published in the February 18, 2022, issue of the *Texas Register* (47 TexReg 725).

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201959

Nycia Deal

Attorney

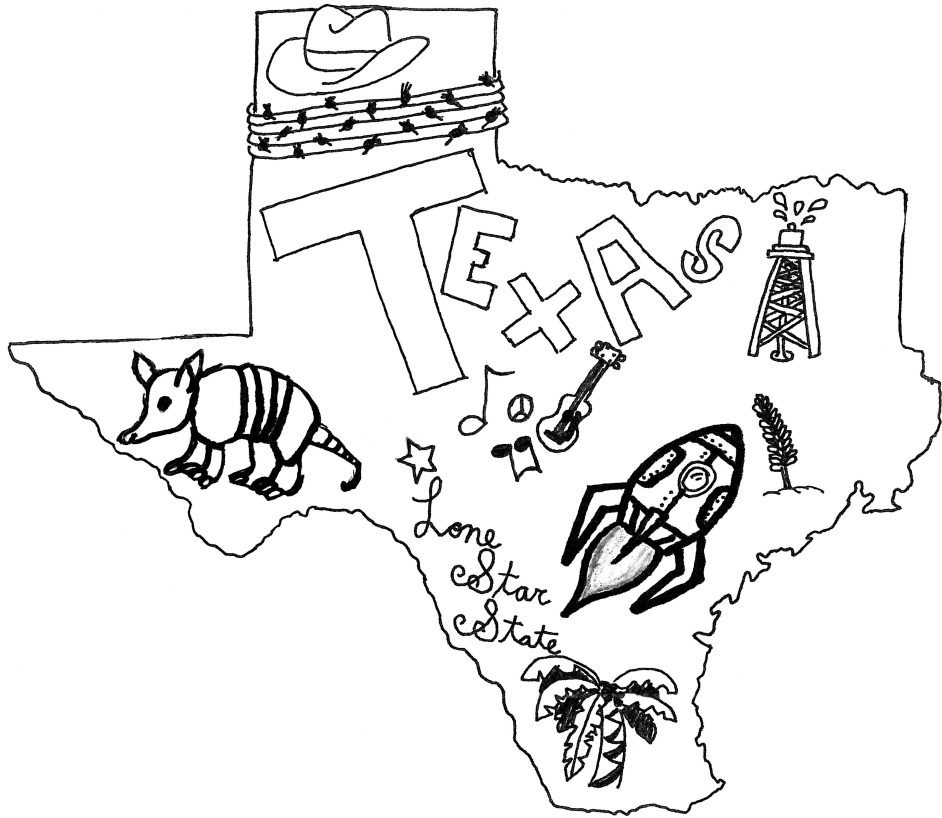
Health and Human Services Commission

Original effective date: February 5, 2022

Expiration date: August 3, 2022

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





PROPOSED RULES

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

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

TITLE 4. AGRICULTURE

PART 2. TEXAS ANIMAL HEALTH COMMISSION

CHAPTER 51. ENTRY REQUIREMENTS

4 TAC §51.3

The Texas Animal Health Commission (commission) proposes an amendment to Title 4, Texas Administrative Code, Chapter 51, §51.3, concerning Exceptions.

BACKGROUND AND PURPOSE

The proposed amendment to §51.3 allows an exception to federal and state interstate cattle movement requirements. Cattle moved interstate must be accompanied by a certificate of veterinary inspection (CVI) in accordance with Texas Agriculture Code §161.054, Title 9 Code of Federal Regulations §86.5, and 4 TAC §51.2(b)(1). Federal regulations allow the movement of cattle without a CVI if the cattle are moved with documentation as agreed upon by animal health officials in the shipping and receiving states. The commission is proposing an amendment to §51.3 to waive the CVI requirement for dairy calves if all parties involved execute and comply with the terms and conditions of the modified movement restriction agreement for 1 to 10-day old dairy calves from a single premises of origin.

SECTION-BY-SECTION DISCUSSION

The proposed amendment to §51.3, Exceptions, provides an exemption in §51.3(b)(2) to the CVI requirement for dairy calves 10 days of age or less if a modified movement restriction agreement is executed between the out-of-state premises of origin and the state of origin animal health official, the Texas premises of destination and the TAHC Executive Director and the Area Veterinarian in Charge (AVIC) of the state of origin and destination. All parties must agree and comply with the terms and conditions in the agreement. The existing CVI exception related to equine in §51.3(b) is reorganized into a paragraph structure and renumbered accordingly. The term equidae was corrected to equine. No substantive changes were made.

FISCAL NOTE

Myra Sines, Chief of Staff, has determined that for each year of the first five years that the rule is in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments. Commission employees will administer and enforce these rules as part of their current job duties and resources. Ms. Sines also determined for the same period that there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the rule amendment.

PUBLIC BENEFIT NOTE

Ms. Sines determined that for each year of the first five years the rule is in effect the public will benefit from the proposed amendment because it improves traceability of dairy cattle and response times in the event of a disease incident.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission determined that the proposed rules would not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission pursuant to Texas Government Code §2001.022.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The commission determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule 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.

TAKINGS IMPACT ASSESSMENT

The commission determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043. Further, the proposed rules relate to the handling of animals, including requirements concerning movement, pursuant to 4 TAC §59.7. As such, the activities under the proposed amendments do not constitute a takings and do not require a Takings Assessment pursuant to Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the commission prepared the following Government Growth Impact Statement and determined that during the first five years that the rule is in effect:

- (1) the amendment will not create or eliminate a government program;
- (2) implementation of the amendment will not affect the number of employee positions;
- (3) implementation of the amendment will result in no assumed change in future legislative appropriations;
- (4) the amendment will not affect fees paid to the commission;

- (5) the amendment will not create a new rule;
- (6) the amendment will not expand, limit, or repeal existing rules;
- (7) the amendment will not change the number of individuals subject to the rule; and
- (8) the amendment will not affect the state's economy.

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

Ms. Sines also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

COSTS TO REGULATED PERSONS

The commission determined there are no costs anticipated for persons that elect to utilize the voluntary modified movement agreement as it is an exception and lower-cost alternative to the CVI requirement. This alternative may improve efficiencies for Texas producers, however, the commission does not have enough information to calculate a cost benefit analysis for regulated persons.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax to (512) 719-0719 or by e-mail to comments@tahc.texas.gov.

To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When faxing or emailing comments, please indicate "Comments on Proposed Rule-Chapter 51, Cattle" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Agriculture Code, Chapter 161.

Pursuant to §161.041, titled "Disease Control", the commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the commission determines require control or eradication.

Pursuant to §161.043, titled "Regulation of Exhibitions", the commission may regulate the entry of livestock and may require certification of those animals as reasonably necessary to protect against communicable diseases.

Pursuant to §161.047, titled "Entry Power", a commissioner or veterinarian or inspector employed by the commission may enter public or private property for the exercise of an authority or performance of a duty under Chapter 161.

Pursuant to §161.048, titled "Inspection of Shipment of Animals or Animal Product", the commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the commission is entitled to stop and inspect a shipment of animals or animal prod-

ucts being transported in this state to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or non-communicable disease.

Pursuant to §161.049, titled "Dealer Records", the commission may require a livestock, exotic livestock, domestic fowl, or exotic fowl dealer to maintain records of all livestock, exotic livestock, domestic fowl, or exotic fowl bought and sold by the dealer. The commission may also inspect and copy the records of a livestock, exotic livestock, domestic fowl, or exotic fowl dealer that relate to the buying and selling of those animals. The commission by rule shall adopt the form and content of the records maintained by a dealer.

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception", the commission may by rule regulate the movement of animals, and may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved.

Pursuant to §161.056(a), titled "Animal Identification Program", the commission, to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the commission to adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.081, titled "Importation of Animals", the commission by rule may provide the method for inspecting and testing animals before and after entry into the state of Texas. The commission may create rules requiring health certificates and entry permits.

Pursuant to §161.101, titled "Duty to Report", a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the disease, if required by the commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease. The commission hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

§51.3. *Exceptions.*

(a) (No change.)

(b) Exceptions for a certificate of veterinary inspection.

(1) Equine may enter Texas when consigned directly to a veterinary hospital or clinic for treatment or for usual veterinary procedures when accompanied by a permit number issued by the commission. Following release by the veterinarian, equidae must be returned immediately to the state of origin by the most direct route. Equine entering Texas for sale at a livestock market, may first be consigned directly to a veterinary hospital or clinic for issuance of the certificate of veterinary inspection, when accompanied by a prior entry permit issued by the commission.

(2) Dairy cattle 10 days of age or less are exempt from the certificate of veterinary inspection requirement if the following are met:

(A) the out-of-state premises of origin and the Texas premises of destination execute a Modified Movement Agreement with the Executive Director and the out-of-state animal health official; and

(B) the cattle are moved directly from the out-of-state premises of origin to the Texas premises of destination in compliance with the Modified Movement Agreement. The Modified Movement Agreement includes identification, recordkeeping, reporting, inspection, testing and other requirements as epidemiologically determined by the Executive Director.

[(b) Exceptions for a certificate of veterinary inspection. Equine may enter Texas when consigned directly to a veterinary hospital or clinic for treatment or for usual veterinary procedures when accompanied by a permit number issued by the commission. Following release by the veterinarian, equidae must be returned immediately to the state of origin by the most direct route. Equine entering Texas for sale at a livestock market, may first be consigned directly to a veterinary hospital or clinic for issuance of the certificate of veterinary inspection, when accompanied by a prior entry permit issued by the commission.]

(c) (No change.)

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

Filed with the Office of the Secretary of State on May 20, 2022.

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Myra Sines

Chief of Staff

Texas Animal Health Commission

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 719-0700



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 31. ADMINISTRATION

16 TAC §31.9

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) proposes an amendment to rule §31.9, related to the Public Safety Advisory Committee.

Background and Summary

At its January 2022 public meeting, the commission adopted a rule creating a Public Safety Advisory Committee ("Committee"). As written, one of three ways to qualify to hold a public member position with the Committee is by having retired from the commission in good standing with a peace officer license. In assembling the Committee, the commission has found this qualification category too narrow. The amendment proposed would qualify a broader category of law enforcement agents for a public member position on the Committee.

Fiscal Note: Costs to State and Local Government

Shana Horton, Rules Attorney, has determined that for each year of the first five years that the proposed amended rule will be in effect, it is not expected to have a significant fiscal impact upon the

agency. Advisory committee members are not paid for their voluntary service. There are no foreseeable economic implications anticipated for other units of state or local government due to the amended rule. The amended rule does not impact fees or fines that can be collected by another state or local government, nor does it impose additional regulatory obligations on other units of government.

Rural Communities Impact Assessment

The proposed amended rule will not have any material adverse fiscal or regulatory impacts on rural communities. Likewise, the proposed amended rule will not adversely affect a local economy in a material way. The amended rule will apply statewide and not impact rural communities in any manner different from urban ones or any local economy in a manner different from other local economies or the state's economy.

Small Business and Micro-Business Assessment/Flexibility Analysis

No material fiscal implications are anticipated for small or micro-businesses due to the proposed amended rule. Therefore, no Small Business and Micro-Business Assessment/Flexibility Analysis is required.

Takings Impact Assessment

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

Public Benefits and Costs

Shana Horton, Rules Attorney, has determined that for each year of the first five years that the amended rule would be in effect, the public would benefit from a full set of qualified public members on the Public Safety Advisory Committee. Some members of the public benefit by qualifying for membership themselves under the broadened category for law enforcement officers. There is no increase in costs to the public.

Government Growth Impact Statement

This paragraph constitutes the commission's government growth impact statement for the proposed amended rule. The analysis addresses the first five years the proposed amended rule would be in effect. The proposed amended rule neither creates nor eliminates a government program. It does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed amended rule requires neither an increase nor a decrease in future legislative appropriations to the commission.

Comments on the proposed amended rule may be submitted in writing to Shana Horton, Rules Attorney, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by email to rules@tabc.texas.gov. Written comments will be accepted for 30 days following publication in the *Texas Register*. The commission does not anticipate the need to hold a public hearing on this proposed amendment.

The amended rule is proposed pursuant to the agency's authority under §5.21 of the Alcoholic Beverage Code, authorizing the establishment of advisory committees; §31.6 of the commission's rules, which requires that a rule establishing a committee include

qualifications of the members; and §5.31 of the Alcoholic Beverage Code by which the commission may prescribe and publish rules necessary to carry out the provisions of the code.

The proposed amended rule does not otherwise impact any other current rules or statutes.

§31.9. Public Safety Advisory Committee.

(a) Pursuant to Texas Alcoholic Beverage Code §5.21 and commission Rule 31.6, the commission hereby establishes the Public Safety Advisory Committee ("Committee").

(b) The purpose, role, and goal of the Committee is to advise the commission on the agency's public safety initiatives.

(c) The presiding officer of the commission shall appoint two commissioners and three members of the public to serve on the Committee. The committee shall select from among its members a presiding officer.

(d) Each public member must either:

(1) hold an ownership interest or management position with an active on-premises retail licensee or permittee;

(2) be a practicing attorney in the field of alcohol regulation; or

(3) be a retired federal or state law enforcement officer in good standing [~~have retired from the commission in good standing with a certified peace officer license~~].

(e) The commission's general counsel shall serve as a non-voting, ex officio member of the Committee.

(f) Prior to the first committee meeting, committee members shall complete training provided by the commission's General Counsel's office regarding compliance with the Texas Open Meetings Act and other applicable ethics rules.

(g) The Committee shall report to the commission at the times and in the manner it determines will best assist the commission.

(h) If the Committee holds a public comment meeting to receive input from the public, agency staff will assist the Committee in conducting the meeting.

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

Filed with the Office of the Secretary of State on May 17, 2022.

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Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 206-3451



CHAPTER 33. LICENSING

SUBCHAPTER A. APPLICATIONS

16 TAC §33.16

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) proposes the repeal of 16 Texas Administrative Code §33.16, Application Rules Applicable to 2021 Technology Transition.

Background and Summary of Basis for the Proposed Repeals

Last year, the commission adopted §33.16 to facilitate the agency's transition from legacy license and permit application systems to the new Alcohol Industry Management System. By its own terms, the rule has expired and is no longer effective. Therefore, to reduce potential confusion and extraneous verbiage in the Texas Administrative Code, the commission proposes to repeal §33.16. The repeal is proposed pursuant to the commission's general powers and duties under §5.31 of the Code.

Fiscal Note: Costs to State and Local Government

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

Rural Communities Impact Assessment

The proposed repeal will not have any material adverse fiscal or regulatory impacts on rural communities or affect a local economy in a material way because the rule to be repealed has already expired.

Small Business and Micro-Business Assessment/Flexibility Analysis

No material fiscal implications are anticipated for small or micro-businesses due to the proposed repeal. Therefore, no Small Business and Micro-Business Assessment/Flexibility Analysis is required.

Takings Impact Assessment

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

Public Benefits and Costs

Ms. Horton has determined that for each year of the first five years that the proposed repeal would be in effect, the public would benefit from the removal of an extraneous, expired rule from the Administrative Code. There is no increase in costs to the public.

Government Growth Impact Statement

This paragraph constitutes the commission's government growth impact statement for the proposed repeal. The analysis addresses the first five years the proposed repeal would be in effect. The proposed repeal neither creates nor eliminates a government program. The proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed repeal requires neither an increase nor a decrease in future legislative appropriations to the commission. The proposed repeal is not expected to result in a significant change in fees paid to the agency. The proposed repeal is not anticipated to have any material impact on the state's overall economy.

The proposed repeal does not create any new regulations. The proposed repeal has no impact on existing regulations because the rule to be repealed has already expired. The proposed repeal has no impact on the number of individuals subject to the rule's applicability.

Comments on the proposed repeal may be submitted in writing to Shana Horton, Rules Attorney, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, by facsimile transmission to (512) 206-3498, attention: Shana Horton, or by email to rules@tabc.texas.gov. Written comments will be accepted for 30 days following publication in the *Texas Register*. The commission does not anticipate the need to hold a public hearing on this proposed repeal.

This repeal is proposed pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed repeal does not impact any other current rules or statutes.

§33.16. *Application Rules Applicable to 2021 Technology Transition.*

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

Filed with the Office of the Secretary of State on May 17, 2022.

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Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 206-3451



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1005

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §97.1005(b) is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 3, 2022, issue of the Texas Register.)

The Texas Education Agency (TEA) proposes an amendment to §97.1005, concerning results driven accountability (RDA). The proposed amendment would repeal the 2021 Results Driven Accountability Manual currently included as Figure: 19 TAC §97.1005(b) and replace it with the 2022 RDA Manual.

BACKGROUND INFORMATION AND JUSTIFICATION: House Bill 3459, 78th Texas Legislature, 2003, added Texas Education Code (TEC), §7.027, which limits and redirects monitoring done by TEA to that required to ensure school district and charter school compliance with federal law and regulations; fi-

nancial accountability, including compliance with grant requirements; and data integrity for purposes of the Texas Student Data System Public Education Information Management System and accountability under TEC, Chapter 39. Legislation passed in 2005 renumbered TEC, §7.027, to TEC, §7.028. To meet this monitoring requirement, TEA developed the Performance Based Monitoring Analysis System (PBMAS) Manual, renamed the Results Driven Accountability (RDA) Manual in 2019, which is used in conjunction with other evaluation systems to monitor performance of certain populations of students and the effectiveness of special programs in school districts and charter schools.

TEA has adopted its PBMAS Manual/RDA Manual in rule since 2005. The manual outlines a dynamic system that evolves over time, so the specific criteria and calculations for monitoring student performance and program effectiveness may differ from year to year. The intent is to update §97.1005 annually to refer to the most recently published RDA Manual.

The proposed amendment to §97.1005 would update the current rule by adopting the 2022 RDA Manual, which describes the specific criteria and calculations that will be used to assign 2022 RDA performance levels.

The 2022 RDA Manual would include several changes from the 2021 system. Revisions to the RDA Manual would include the following.

Referenced dates relevant to the 2022 RDA indicator data and calculations would be updated throughout. Additional explanatory text would be added to the RDA Manual overview as well as exemplar data for calculation methodologies demonstration.

Bilingual Education, English as a Second Language, and Emergent Bilingual (BE/ESL/EB)

This portion would include a new report only indicator for BE/ESL/EB Indicator #3(i-iv): Alternative Language Program (ALP) STAAR 3-8 Passing Rate to measure student outcomes in LEAs who receive waivers under 19 TAC §89.1207(a) or 19 TAC §89.1207(b). It would also include new indicator names: BE/ESL/EB Indicator #1 (i-iv) BE STAAR 3-8 Passing Rate; BE/ESL/EB Indicator #2 (i-iv) ESL STAAR 3-8 Passing Rate; BE/ESL/EB Indicator #4 (i-iv) EB (Not Served in BE/ESL) STAAR 3-8 Passing Rate; BE/ESL/EB Indicator #5 EB Dyslexia STAAR 3-8 Reading Passing Rate; BE/ESL/EB Indicator #6 (i-iv) EB Years-After Reclassification (YsAR) STAAR 3-8 Passing Rate; BE/ESL/EB Indicator #7 (i-iv) EB STAAR EOC Passing Rate; BE/ESL/EB Indicator #8 TELPAS Reading Beginning Proficiency Level Rate; BE/ESL/EB Indicator #9 TELPAS Composite Rating Levels for Students in U.S. Schools Multiple Years; BE/ESL/EB Indicator #10 EB Graduation Rate; BE/ESL/EB Indicator #11 EB Annual Dropout Rate (Grades 7-12); and BE/ESL/EB Indicator #12 EB Dyslexia Representation (Ages 6-21) to parallel with programmatic terminology usage that would replace English learners with emergent bilingual students with no impact to data inclusion or exclusion, and which would reflect the elimination of a separate writing assessment subject measurement in applicable indicators. In addition, it would eliminate duplicative information and reenumeration of data notes.

Other Special Populations (OSP)

This portion would include a new indicator name: OSP Indicator #1 (i-iv) OSP STAAR 3-8 Passing Rate, which would reflect the elimination of a separate writing assessment subject measurement.

Special Education (SPED)

This portion would include new indicator names: SPED Indicator #1 (i-iv) SPED STAAR 3-8 Passing Rate; and SPED Indicator #3 (i-iv) SPED Year-After-Exit (YAE) STAAR 3-8 Passing Rate, which would reflect the elimination of a separate writing assessment subject measurement; SPED Indicator #8 SPED Dyslexia Representation (school-aged); SPED Indicator #9 SPED Regular Early Childhood Program Rate (preschool-aged); SPED Indicator #10 SPED Regular Class $\geq 80\%$ Rate (school-aged); SPED Indicator #11 SPED Regular Class $< 40\%$ Rate (school-aged); and SPED Indicator #12 SPED Separate Settings Rate (school-aged), which would define student-aged inclusion in each applicable indicator.

Of Note for all RDA Program Areas

On March 16, 2020, Governor Greg Abbott waived the State of Texas Assessment of Academic Readiness (STAAR®) testing requirements for the 2019-2020 school year due to extensive school closures relating to the COVID-19 nation-wide pandemic event. As a result, indicators specific to STAAR® testing proficiency, participation, or other reliance on non-existing 2019-2020 STAAR® data were assigned an "ND" for no data availability for RDA 2020. Because application of the special analysis (SA) process uses data over the prior two years, impacted STAAR® assessment indicators would not include SA processing for RDA 2022.

FISCAL IMPACT: Jennifer Alexander, deputy commissioner for special populations, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit an existing regulation due to its effect on school accountability for 2022.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be rule language that is based on current law and clarification for school districts on the assignment of accreditation statuses and the applicability of sanctions and any future district ratings on subsequent accreditation status assignments. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins June 3, 2022, and ends July 5, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Two virtual public hearings to solicit testimony and input on the proposed amendment will be held at 1:00 p.m. on June 7, 2022, and at 1:00 p.m. on June 9, 2022, via the link published on the TEA RDA and PBMAS Manuals website at <https://tea.texas.gov/student-assessment/monitoring-and-interventions/rda/rda-and-pbmas-manuals>. Anyone wishing to testify at one of the hearings must register between 12:45 p.m. and 1:30 p.m. on the day of the hearing. Each hearing will conclude once all who have signed in have been given the opportunity to comment. Due to potential limitations for some stakeholders to participate in the virtual environment, interested stakeholders who may be limited in access to the virtual platform are encouraged to submit written comments. Questions about the hearing should be directed to Tebbi Bowman, Office of Special Populations and Monitoring, tebbi.bowman@tea.texas.gov.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §7.021(b)(1), which authorizes the Texas Education Agency (TEA) to administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs; TEC, §7.028, which authorizes TEA to monitor as necessary to ensure school district and charter school compliance with federal law and regulations, financial integrity, and data integrity and authorizes the agency to monitor school district and charter schools through its investigative process. TEC, §7.028(a), authorizes TEA to monitor special education programs for compliance with state and federal laws; TEC, §12.056, which requires that a campus or program for which a charter is granted under TEC, Chapter 12, Subchapter C, is subject to any prohibition relating to the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter C, as determined by the commissioner; high school graduation under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; and public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, and J, and Chapter 39A; TEC, §12.104, which states that a charter granted under TEC, Chapter 12, Subchapter D, is subject to a prohibition, restriction, or requirement, as applicable, imposed by TEC, Title 2, or a rule adopted under TEC, Title 2, relating to PEIMS to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter D, as determined by

the commissioner; high school graduation requirements under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; discipline management practices or behavior management techniques under TEC, §37.0021; public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and Chapter 39A; and intensive programs of instruction under TEC, §28.0213; TEC, §29.001, which authorizes TEA to effectively monitor all local education agencies (LEAs) to ensure that rules relating to the delivery of services to children with disabilities are applied in a consistent and uniform manner, to ensure that LEAs are complying with those rules, and to ensure that specific reports filed by LEAs are accurate and complete; TEC, §29.0011(b), which authorizes TEA to meet the requirements under (1) 20 U.S.C. Section 1418(d) and its implementing regulations to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and in the school districts and open-enrollment charter schools in the state with respect to the: (A) Identification of children as children with disabilities, including the identification of children as children with particular impairments; (B) Placement of children with disabilities in particular educational settings; and (C) Incidence, duration, and type of disciplinary actions taken against children with disabilities including suspensions or expulsions; or (2) 20 U.S.C. Section 1416(a)(3)(C) and its implementing regulations to address in the statewide plan the percentage of schools with disproportionate representation of racial and ethnic groups in special education and related services and in specific disability categories that results from inappropriate identification; TEC, §29.010(a), which authorizes TEA to adopt and implement a comprehensive system for monitoring LEA compliance with federal and state laws relating to special education, including ongoing analysis of LEA special education data; TEC, §29.062, which authorizes TEA to evaluate and monitor the effectiveness of LEA programs and apply sanctions concerning emergent bilingual students; TEC, §29.066, which authorizes PEIMS reporting requirements for school districts that are required to offer bilingual education or special language programs to include the following information in the district's PEIMS report: (1) demographic information, as determined by the commissioner, on students enrolled in district bilingual education or special language programs; (2) the number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and (3) the number and percentage of emergent bilingual students who do not receive specialized instruction; TEC, §39.003 and §39.004, which authorize the commissioner to adopt procedures relating to special investigations. TEC, §39.003(d), allows the commissioner to take appropriate action under Chapter 39A, to lower the district's accreditation status or the district's or campus's accountability rating based on the results of the special investigation; TEC, §39.051 and §39.052, which authorize the commissioner to determine criteria for accreditation statuses and to determine the accreditation status of each school district and open-enrollment charter school; TEC, §39.053, which authorizes the commissioner to adopt a set of indicators of the quality of learning and achievement and requires the commissioner to periodically review the indicators for consideration of appropriate revisions; TEC, §39.054(b-1), which authorizes TEA to consider the effectiveness of district programs for special populations when determining accreditation statuses; TEC, §39.0541, which authorizes the commissioner to adopt indicators and standards under TEC, Chapter 39, Subchapter C, at any time during a school year before the evaluation of a school district or campus; TEC, §39.056,

which authorizes the commissioner to adopt procedures relating to monitoring reviews and special accreditation investigations; TEC, §39A.001, which authorizes the commissioner to take any of the actions authorized by TEC, Chapter 39, Subchapter A, to the extent the commissioner determines necessary if a school does not satisfy the academic performance standards under TEC, §39.053 or §39.054, or based upon a special investigation; TEC, §39A.002, which authorizes the commissioner to take certain actions if a school district becomes subject to commissioner action under TEC, §39A.001; TEC, §39A.004, which authorizes the commissioner to appoint a board of managers to exercise the powers and duties of a school district's board of trustees if the district is subject to commissioner action under TEC, §39A.001, and has a current accreditation status of accredited-warned or accredited-probation; or fails to satisfy any standard under TEC, §39.054(e); or fails to satisfy any financial accountability standard; TEC, §39A.005, which authorizes the commissioner to revoke school accreditation if the district is subject to TEC, §39A.001, and for two consecutive school years has received an accreditation status of accredited-warned or accredited-probation, failed to satisfy any standard under TEC, §39.054(e), or failed to satisfy a financial performance standard; TEC, §39A.007, which authorizes the commissioner to impose a sanction designed to improve high school completion rates if the district has failed to satisfy any standard under TEC, §39.054(e), due to high school completion rates; TEC, §39A.051, which authorizes the commissioner to take action based on campus performance that is below any standard under TEC, §39.054(e); and TEC, §39A.063, which authorizes the commissioner to accept substantially similar intervention measures as required by federal accountability measures in compliance with TEC, Chapter 39A.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.021(b)(1), 7.028, 12.056, 12.104, 29.001, 29.0011(b), 29.010(a), 29.062, 29.066, 39.003, 39.004, 39.051, 39.052, 39.053, 39.054(b-1), 39.0541, 39.056, 39A.001, 39A.002, 39A.004, 39A.005, 39A.007, 39A.051, and 39A.063.

§97.1005. Results Driven Accountability.

(a) In accordance with Texas Education Code, §7.028(a), the purpose of the Results Driven Accountability (RDA) framework is to evaluate and report annually on the performance of school districts and charter schools for certain populations of students included in selected program areas. The performance of a school district or charter school is included on the RDA report through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner of education.

(b) The assignment of performance levels for school districts and charter schools in the 2022 [2021] RDA report is based on specific criteria and calculations, which are described in the 2022 [2021] RDA Manual provided in this subsection.

Figure: 19 TAC §97.1005(b)
[Figure: 19 TAC §97.1005(b)]

(c) The specific criteria and calculations used in the RDA framework will be established annually by the commissioner of education and communicated to all school districts and charter schools.

(d) The specific criteria and calculations used in the annual RDA manual adopted for prior school years will remain in effect for all purposes, including accountability and performance monitoring, data standards, and audits, with respect to those school years.

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

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TRD-202201986

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



CHAPTER 100. CHARTERS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT CHARTER SCHOOLS

DIVISION 1. GENERAL PROVISIONS

19 TAC §100.1010

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §100.1010(c) is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 3, 2022, issue of the Texas Register.)

The Texas Education Agency (TEA) proposes an amendment to §100.1010, concerning performance frameworks for open-enrollment charter schools. The proposed amendment would adopt in rule the *2021 Charter School Performance Framework (CSPF) Manual*, which would be updated to comply with statutory provisions and clarify the operation of the CSPF to rate the performance of open-enrollment charter schools in Texas.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 100.1010 was adopted effective September 18, 2014, and was last amended effective March 8, 2022. The rule is issued under Texas Education Code, §12.1181, which requires the commissioner to develop and adopt frameworks by which the performance of open-enrollment charter schools is measured. The performance frameworks (charter schools measured under standard accountability and charter schools measured under alternative education accountability) consist of several indices within academic, financial, and operational categories with data drawn from various sources, as reflected in the CSPF Manual adopted as a figure in the rule and updated every year.

The proposed amendment would replace the *2020 CSPF Manual* with the *2021 CSPF Manual*. The 2021 version of the manual presents no significant changes from 2020.

Throughout the manual, language would be revised with clarifying edits such as updated dates, references to financial accountability indicators, and language describing the waiver of accountability requirements. In addition, indicator 3I, Appropriate Handling of Secure Assessment Materials, would be updated to define "meets expectations" and "does not meet expectations." The indicator is not applicable for 2021.

FISCAL IMPACT: Kelvev Oeser, deputy commissioner for educator support, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or

local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Oeser has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure statutorily required charter school performance frameworks data is gathered and used as accurately as possible. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins June 3, 2022, and ends July 5, 2022. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on June 3, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §12.1181, which directs the commissioner of education to develop and adopt open-enrollment charter school performance frameworks; and TEC, §29.259, which directs the commissioner of education to establish an

adult high school diploma and industry certification charter school program, including adoption of frameworks to measure the performance of such a school.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §12.1181 and §29.259.

§100.1010. Performance Frameworks.

(a) The performance of an open-enrollment charter school will be measured annually against a set of criteria set forth in the Charter School Performance Framework (CSPF) Manual established under Texas Education Code (TEC), §12.1181. The CSPF Manual will include measures for charters registered under the standard accountability system and measures for charters registered under the alternative education accountability system as adopted under §97.1001 of this title (relating to Accountability Rating System).

(b) The performance of an adult high school diploma and industry certification charter school will be measured annually in the CSPF against a set of criteria established under TEC, §29.259.

(c) The assignment of performance levels for charter schools on the 2021 [2020] CSPF report is based on specific criteria, which are described in the 2021 [2020] *Charter School Performance Framework Manual* provided in this subsection.

Figure: 19 TAC §100.1010(c)

[Figure: 19 TAC §100.1010(e)]

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201991

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: July 3, 2022

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



CHAPTER 109. BUDGETING, ACCOUNTING,
AND AUDITING
SUBCHAPTER EE. COMMISSIONER'S
RULES CONCERNING FINANCIAL
ACCOUNTING GUIDELINES

19 TAC §109.5001

The Texas Education Agency (TEA) proposes an amendment to §109.5001, concerning the financial accountability system resource guide. The proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG), Version 18.0. The FASRG provides accounting rules for school districts, open-enrollment charter schools, and education service centers.

BACKGROUND INFORMATION AND JUSTIFICATION: The FASRG describes the rules of financial accounting for school districts, charter schools, and education service centers. Requirements for financial accounting and reporting are derived from generally accepted accounting principles (GAAP). School districts and charter schools are required to adhere to GAAP. Legal and contractual considerations typical of the government

environment are reflected in the fund structure basis of accounting.

An important function of governmental accounting systems is to enable administrators to assure and report on compliance with finance-related legal provisions. This assurance and reporting means that the accounting system and its terminology, fund structure, and procedures must be adapted to satisfy finance-related legal requirements. However, the basic financial statements of school districts and charter schools should be prepared in conformity with GAAP.

School district and charter school accounting systems shall use the accounting code structure presented in the account code section of the FASRG (Module 1). Funds shall be classified and identified on required financial statements by the same code number and terminology provided in the account code section of the FASRG (Module 1).

The FASRG, Version 18.0, contains six modules on the following topics: Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices; Module 2, Special Supplement - Charter Schools; Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts; Module 4, Auditing; Module 5, Purchasing; and Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System.

State law provides authority for both the State Board of Education (SBOE) and the commissioner of education to adopt rules on financial accounting. To accomplish this, the SBOE and the commissioner each adopt the FASRG by reference under separate rules. The SBOE adopts the FASRG by reference under 19 TAC §109.41, and the commissioner adopts the FASRG by reference under §109.5001.

The following changes would be made to Modules 1-6 of the FASRG.

Module 1 would align with current governmental accounting standards. Proposed Module 1 would include the following significant changes. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. In addition, school districts would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the Governmental Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

Module 2 would align with current financial and accounting reporting standards. Proposed Module 2 would include the following significant changes. The proposed module would establish financial and accounting requirements for Texas public charter schools to ensure uniformity in accounting in conformity with GAAP. The proposed module would also include current guidance that complements the American Institute of Certified Public Accountants (AICPA) *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States Government Accountability Office (GAO). These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

Module 3 would align with current governmental accounting standards. Proposed Module 3 would include the following significant changes. Charter schools would be required to maintain proper budgeting and financial accounting and reporting systems that are in conformity with Texas Education Data Standards in the Texas Student Data Systems Public Education Information Management System. In addition, charter schools

would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the FASB. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

Module 4 would align with current governmental auditing standards. Proposed Module 4 would include the following significant changes. The proposed module would establish auditing requirements for Texas public school districts and charter schools and include current requirements from Texas Education Code, §44.008, as well as Title 2, Code of Federal Regulations, Part 200, Subpart F, Audit Requirements, that implement the federal Single Audit Act. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the GASB.

Module 5 would align with current purchasing laws and standards. Proposed Module 5 would include the following significant changes. School districts and charter schools would be required to establish procurement policies and procedures that align with their unique operating environment and ensure compliance with relevant statutes and policies.

Module 6 would align with current governmental accounting standards. Proposed Module 6 would include the following significant changes. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. The module would provide current information to assist local school officials' understanding of the numerous options for use of the state compensatory education allotment and provide current guidance for compliance.

The FASRG is posted on the TEA website at <https://tea.texas.gov/finance-and-grants/financial-accountability/financial-accountability-system-resource-guide>.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand and limit an existing regulation. The proposal would amend requirements and provide updated governmental accounting and auditing standards. In some instances, the proposed changes would add information, and in some instances, information would be removed.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lopez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure that the provisions of the FASRG align with current governmental accounting and auditing standards for school districts and charter schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins June 3, 2022, and ends July 5, 2022. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on June 3, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §7.055(b)(32), which requires the commissioner to perform duties in connection with the public school accountability system as prescribed by TEC, Chapters 39 and 39A; TEC, §44.001(a), which requires the commissioner to establish advisory guidelines relating to the fiscal management of a school district; TEC, §44.001(b), which requires the commissioner to report annually to the State Board of Education (SBOE) the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements; TEC, §44.007(a), which requires the board of trustees of each school district to adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles; TEC, §44.007(b), which requires the accounting system to meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor; TEC, §44.007(c), which requires a record to be kept of all revenues realized and of all expenditures made during the fis-

cal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year is required to be filed with the agency on or before the date set by the SBOE; TEC, §44.007(d), which requires each district, as part of the report required by TEC, §44.007, to include management, cost accounting, and financial information in a format prescribed by the SBOE in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program; and TEC, §44.008(b), which requires the independent audit to meet at least the minimum requirements and be in the format prescribed by the SBOE, subject to review and comment by the state auditor. The audit must include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.055(b)(32), 44.001(a) and (b), 44.007(a)-(d), and 44.008(b).

§109.5001. Financial Accountability System Resource Guide.

The rules for financial accounting are described in the official Texas Education Agency (TEA) publication *Financial Accountability System Resource Guide, Version 18.0 [dated June 2021]*, which is adopted by this reference as the agency's official rule. A copy is available on the TEA website with information related to financial compliance.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201998

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: July 3, 2022

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



PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION SUBCHAPTER E. EDUCATIONAL AIDE CERTIFICATE

19 TAC §230.55

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §230.55, concerning requirements for Educational Aide I certificate. The proposed amendment would update requirements for issuance of the Educational Aide I certificate to high school students who qualify for industry-based certification. The proposed amendment would also provide technical cross-reference and State Board of Education (SBOE) action updates.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 230, Subchapter E, specify the requirements for issuance of an educational aide certificate. The following provides a description of changes to 19 TAC §230.55.

The proposed amendment to §230.55(4) would include a technical cross-reference edit to reflect recent SBOE updates to Texas Essential Knowledge and Skills (TEKS) rule chapters for Career and Technical Education and to change references to Education and Training from Chapter 130, Subchapter E, to newly adopted Chapter 127, Subchapter G, Education and Training.

The proposed amendment to §230.55(4) would also expand the list of SBOE-approved education and training course options to be completed by high school students to qualify for the Educational Aide I certificate. The proposed amendment would allow high school students, who qualify for an industry-based certification, additional options for courses they can take to fulfill the three-credit requirement detailed in §230.55(4) and would continue to allow schools to accurately reflect these students as "career ready" in their accountability measures. The number of credits required to qualify for the Educational Aide I certificate remains unchanged.

The expanded list of approved education and training course options requires the proposed expansion of §230.55(4), wherein the existing two training course options are proposed to be contained in relettered subparagraphs (E) and (F), and the additional training course options are proposed to be contained in new subparagraphs (A)-(D), with §230.55(4) proposed to be organized by ascending training course section number. The proposed amendment to §230.55(E) and (F) would include the technical cross-reference edits to reflect recent TEKS chapter updates that align with the relevant education and training courses from Chapter 130, Subchapter E, to newly adopted Chapter 127, Subchapter G.

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, has determined that there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, the proposal would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals

subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal would be providing high school students more course options and, thereby, greater flexibility and opportunity to meet the course work requirements for issuance of the educational aide certificate as an industry-based certification. The TEA staff has determined that there is no anticipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA staff has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins June 3, 2022, and ends July 5, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 22, 2022 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Preparation, Certification, and Enforcement, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, not more than 14 calendar days after notice of the proposal has been published in the Texas Register on June 3, 2022.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.041(a), which states the board may adopt rules as necessary for its own procedures; and TEC, §21.041(b)(1)-(4), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B, and requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates, the period for which each class of educator certificate is valid, and the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §21.041(a) and (b)(1)-(4).

§230.55. Certification Requirements for Educational Aide I.

An applicant for an Educational Aide [educational aide] I certificate shall meet the requirements in either paragraphs (1) and (2) of this section or paragraphs (3) and (4) of this section as follows:

- (1) hold a high school diploma, the equivalent of a high school diploma, or higher; and
- (2) have experience working with students or parents as approved by the employing superintendent. Experience may be work in church-related schools, day camps, youth groups, private schools, licensed daycare centers, or similar experience; or
- (3) be a high school student 18 years of age or older; and

(4) have a final grade of 70 or better in two or more education and training courses specified in Chapter 127, Subchapter G, [Chapter 130, Subchapter E,] of Part 2 of this title (relating to Education and Training) for three or more credits verified in writing by the superintendent of the district in which [where] the credits were earned. The education and training courses must include [either]:

(A) Child Development, as described in §127.317 of Part 2 of this title (relating to Child Development (One Credit), Adopted 2021); or

(B) Child Guidance, as described in §127.318 of Part 2 of this title (relating to Child Guidance (Two Credits), Adopted 2021); or

(C) Practicum in Early Learning, as described in §127.320 of Part 2 of this title (relating to Practicum in Early Learning (Two Credits), Adopted 2021); or

(D) Communication and Technology in Education, as described in §127.324 of Part 2 of this title (relating to Communication and Technology in Education (One Credit), Adopted 2021); or

(E) [(A)] Instructional Practices, as described in §127.325 [§130.164] of Part 2 of this title (relating to Instructional Practices (Two Credits), Adopted 2021 [2015]); or

(F) [(B)] Practicum in Education and Training, as described in §127.326 [§130.165] of Part 2 of this title (relating to Practicum in Education and Training (Two Credits), Adopted 2021 [2015]).

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201987

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: July 3, 2022

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



CHAPTER 232. GENERAL CERTIFICATION PROVISIONS

SUBCHAPTER A. CERTIFICATE RENEWAL AND CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

19 TAC §232.7

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §232.7, concerning requirements for certificate renewal. The proposed amendment would require that to renew an educator's certificate, the educator must be in compliance with the terms of any SBEC order resulting from an educator discipline case against the educator. This requirement would allow the SBEC to enforce its disciplinary orders more efficiently and consistently, particularly when the order requires an educator to take training or continuing education but does not suspend the educator's certificate.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 232, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, provide for rules that establish the requirements relating to types and classes of certificates issued, certificate renewal, and continuing professional education (CPE). In particular, 19 TAC §232.7, Requirements for Certificate Renewal, sets out the procedures for certificate renewal and the conditions an educator must meet in order to renew their educator certificate.

The proposed new §232.7(c)(4) would add a new prerequisite requirement for renewal of an educator's certificate to require the educator be in compliance with all terms of any SBEC disciplinary orders against the educator prior to renewal.

The purpose of this amendment is to allow the SBEC an efficient method of enforcing its orders that require an educator to complete training or additional continuing education but do not suspend the educator's certificate. Currently, the SBEC is easily able to enforce the training or continuing education requirements of its orders involving suspensions because the educator has to show proof of the completed courses before the educator's certificate can be reinstated at the end of the suspension. To enforce an order that requires training but does not involve a suspension, the SBEC currently has to instigate a second contested case proceeding, seeking to find that the educator is in violation of the SBEC order. This is a long process and requires a significant amount of staff time and agency resources.

It is likely that SBEC orders requiring training without a suspension or other sanction will increase after recent rule changes to 19 TAC §249.15, Disciplinary Action by State Board for Educator Certification, to comply with House Bill 2519, 87th Texas Legislature, Regular Session, 2021, allowing the SBEC to order additional continuing education or training without otherwise sanctioning the educator's certificate. The proposed amendment would require educators to ensure that they had met the requirements of their disciplinary SBEC orders prior to renewing their certificates and would allow the SBEC to refuse to renew an educator's certificate until the educator has fully complied with the SBEC order by completing all required training and by submitting proof. This method of efficient enforcement of SBEC-ordered training requirements would ensure that more educators complete the ordered training or continuing education in a timely manner.

The proposal includes proposed technical edits that would renumber provisions in §232.7(c) to accommodate proposed new §232.7(c)(4) and that would edit a cross reference to 19 TAC §232.11 in §232.7(b)(4).

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, has determined that there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

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

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

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, the proposal would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, repeal, or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal would be enhanced student safety and welfare resulting from educators completing training to remediate in the specific areas that the SBEC found were necessary to improve the educators' worthiness to instruct. The TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA staff has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins June 3, 2022, and ends July 5, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the July 22, 2022 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Preparation, Certification, and Enforcement, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, not more than 14 calendar days after notice of the proposal has been published in the Texas Register on June 3, 2022.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.003(a), which states a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.0031(f), which clarifies and places certain limits on provisions authorizing termination of an educator's contract for failure to maintain a valid certificate; TEC, §21.031, which authorizes the SBEC to regulate and oversee all aspects of the certification, continuing educa-

tion, and standards of conduct of public-school educators; TEC, §21.041(b)(1)-(4), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.041(b)(7)-(8), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Government Code, Chapter 2001, and provide for the adoption, amendment, and enforcement of an educator's code of ethics; TEC, §21.041(b)(9), which requires the SBEC to propose rules that provide for continuing education requirements; TEC, §21.054, which requires the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements; TEC, §21.0541, which requires the SBEC to propose rules that allow an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator (AED); TEC, §21.0543, which requires the SBEC to propose rules that provide for continuing education credit related to digital technology instruction; and Texas Occupations Code (TOC), §55.002, which states a state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes the individual failed to renew the license in a timely manner because the individual was serving as a military service member; and TOC, §55.003, which states a military service member who holds a license is entitled to two years of additional time to complete any continuing education requirements and any other requirement related to the renewal of the military service member's license.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.003(a); 21.0031(f); 21.031; 21.041(b)(1)-(4) and (7)-(9); 21.054; 21.0541; and 21.0543; and Texas Occupations Code (TOC), §55.002 and §55.003.

§232.7. *Requirements for Certificate Renewal.*

(a) The Texas Education Agency (TEA) staff shall develop procedures to:

- (1) notify educators at least six months prior to the expiration of the renewal period to the email address as specified in §230.91 of this title (relating to Procedures in General);
- (2) confirm compliance with all renewal requirements pursuant to this subchapter;
- (3) notify educators who are not renewed due to noncompliance with this section; and
- (4) verify that educators applying for reactivation of certificate(s) under §232.9 of this title (relating to Inactive Status and Late Renewal) are in compliance with subsection (c) of this section.

(b) The TEA staff shall administratively approve each hardship exemption request that meets the criteria specified in paragraphs (1)-(4) of this subsection.

(1) A hardship exemption must be due to one of the following circumstances that prevented the educator's completion of renewal requirements:

- (A) catastrophic illness or injury of the educator;
- (B) catastrophic illness or injury of an immediate family member; or
- (C) military service of the educator.

(2) The request for a hardship exemption must include documentation from a licensed physician or verified military records.

(3) The request for the amount of time allowed for renewal is equal to:

(A) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the educator's catastrophic illness or injury; or

(B) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the catastrophic illness or injury of an immediate family member; or

(C) two years of additional time for a military service member, in accordance with the Texas Occupations Code, §55.003.

(4) A hardship exemption may be approved for a local education agency on behalf of an educator who has an invalid certificate due to lack of earning the required continuing professional education (CPE) hours as prescribed in §232.11 of this title (relating to Number and [øf] Content of Required Continuing Professional Education Hours). The hardship exemption is valid for the academic year of the application and may be renewed up to one additional academic year, provided that the superintendent or designee of the local education agency requests the extension.

(5) If a hardship exemption request is approved, the educator must pay the appropriate renewal fee, pursuant to §230.101 of this title (relating to Schedule of Fees for Certification Services).

(c) To be eligible for renewal, an educator must:

(1) subject to §232.16(c) of this title (relating to Verification of Renewal Requirements), satisfy CPE requirements, pursuant to §232.11 of this title;

(2) hold a valid standard certificate that is not currently suspended and has not been surrendered in lieu of revocation or revoked by lawful authority;

(3) not be a respondent in a disciplinary proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);

(4) be in compliance with all terms of any orders of the State Board for Educator Certification resulting from a disciplinary proceeding against the educator under Chapter 249 of this title;

(5) [~~(4)~~] successfully resolve any reported criminal history, as defined by §249.3 of this title (relating to Definitions);

(6) [~~(5)~~] not be in arrears of child support, pursuant to the Texas Family Code, Chapter 232;

(7) [~~(6)~~] pay the renewal fee, provided in §230.101 of this title, which shall be a single fee regardless of the number of certificates being renewed; and

(8) [~~(7)~~] submit fingerprints in accordance with §232.35(c) of this title (relating to Submission of Required Information) and the Texas Education Code, §22.0831.

(d) The TEA staff shall renew the certificate(s) of an educator who meets all requirements of this subchapter.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201988

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: July 3, 2022

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



TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER E. RESPONSIBILITIES TO THE BOARD/PROFESSION

22 TAC §501.90

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.90 concerning Discreditable Acts.

Background, Justification and Summary

The rule lists the Texas State Treasurer which is a state agency that no longer exists. The proposed revision deletes the reference to that state agency.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment is to avoid the possible confusion of identifying a state agency that no longer exists.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obliga-

tions upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on July 5, 2022.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151 and §901.655 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.90. Discreditable Acts.

A person shall not commit any act that reflects adversely on that person's fitness to engage in the practice of public accountancy. A discreditable act includes but is not limited to and the board may discipline a person for the following:

- (1) fraud or deceit in obtaining a certificate as a CPA or in obtaining registration under the Act or in obtaining a license to practice public accounting;

(2) dishonesty, fraud or gross negligence in the practice of public accountancy;

(3) violation of any of the provisions of Subchapter J or §901.458 of the Act (relating to Loss of Independence) applicable to a person certified or registered by the board;

(4) final conviction of a felony or imposition of deferred adjudication or community supervision in connection with a criminal prosecution of a felony under the laws of any state or the United States;

(5) final conviction of any crime or imposition of deferred adjudication or community supervision in connection with a criminal prosecution, an element of which is dishonesty or fraud under the laws of any state or the United States, a criminal prosecution for a crime of moral turpitude, a criminal prosecution involving alcohol abuse or controlled substances, or a criminal prosecution for a crime involving physical harm or the threat of physical harm;

(6) a revocation, cancellation, placement on probation, limitation on the scope of practice, or suspension by another state, or a refusal of renewal by another state, of the authority issued by that state to the person, or to the person's partner, member, or shareholder, to engage in the practice of public accountancy for a reason other than the failure to pay the appropriate authorization fee;

(7) suspension or revocation of or any consent decree concerning the right to practice before any state or federal regulatory or licensing body for a cause which in the opinion of the board warrants its action;

(8) a final finding of conduct by state or federal courts of competent jurisdiction, agencies, boards, local governments or commissions for violations of state or federal laws or rules or findings of unethical conduct by licensees that engage in activities regulated by entities including but not limited to: the Public Company Accounting Oversight Board, Internal Revenue Service, U.S. Securities and Exchange Commission, U.S. Department of Labor, U.S. General Accounting Office, U.S. Housing and Urban Development, Texas State Auditor, Texas Comptroller of Public Accounts, [~~Texas State Treasurer~~], Texas Securities Board, Texas Department of Insurance, and the Texas Secretary of State;

(9) knowingly participating in the preparation of a false or misleading financial statement or tax return;

(10) fiscal dishonesty or breach of fiduciary responsibility of any type;

(11) failure to comply with a final order of any state or federal court;

(12) repeated failure to respond to a client's inquiry within a reasonable time without good cause;

(13) intentionally misrepresenting facts or making a misleading or deceitful statement to a client, the board, board staff or any person acting on behalf of the board;

(14) giving intentional false sworn testimony or perjury in court or in connection with discovery in a court proceeding or in any communication to the board or any other federal or state regulatory or licensing body;

(15) threats of bodily harm or retribution to a client;

(16) public allegations of a lack of mental capacity of a client which cannot be supported in fact;

(17) voluntarily disclosing information communicated to the person by an employer, past or present, or through the person's em-

ployment in connection with accounting services rendered to the employer, except:

(A) by permission of the employer;

(B) pursuant to the Government Code, Chapter 554 (commonly referred to as the "Whistle Blowers Act");

(C) pursuant to:

(i) a court order signed by a judge;

(ii) a summons under the provisions of:

(I) the Internal Revenue Code of 1986 and its subsequent amendments;

(II) the Securities Act of 1933 (15 U.S.C. §77a et seq.) and its subsequent amendments; or

(III) the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) and its subsequent amendments;

(iii) a congressional or grand jury subpoena; or

(iv) applicable federal laws, federal government regulations, including requirements of the PCAOB;

(D) in an investigation or proceeding by the board;

(E) in an ethical investigation conducted by a professional organization of CPAs;

(F) in the course of a peer review under §901.159 of the Act (relating to Peer Review); or

(G) any information that is required to be disclosed by the professional standards for reporting on the examination of a financial statement.

(18) breaching the terms of an agreed consent order entered by the board or violating any Board Order.

(19) Interpretive Comment: The board has found in §519.7 of this title (relating to Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License) and §525.1 of this title (relating to Applications for the UCPAE, Issuance of the CPA Certificate, or Initial License) that any crime of moral turpitude directly relates to the practice of public accountancy. A crime of moral turpitude is defined in this chapter as a crime involving grave infringement of the moral sentiment of the community. The board has found in §519.7 of this title that any crime involving alcohol abuse or controlled substances directly relates to the practice of public accountancy.

(20) Interpretive comment: A conviction or final finding of unethical conduct by a competent authority, for the purpose of paragraph (8) of this subsection, includes any right to practice before the authority or findings that limit the scope of the permit or license conveyed by the authority. Conviction relates to the finding in a criminal proceeding and final finding relates to a determination in a non-criminal proceeding. Unethical conduct or activities are determined by the governmental entity making the determination of a conviction or final finding.

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201935

J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: July 3, 2022
For further information, please call: (512) 305-7842



CHAPTER 511. ELIGIBILITY

SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

22 TAC §511.59

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.59 concerning Definition of 150 Semester Hours.

Background, Justification and Summary

To identify the nine total semester credit hours of undergraduate or graduate independent study course and/or internships to be considered as academic coursework necessary to be eligible to take the UCPAE and to remove language in order to broaden the ability of the Board to approve vocational, career or faith-based courses approved by accredited higher education colleges and universities.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will better inform the public and particularly students wishing to become eligible to take the UCPAE the courses needed to qualify to take the Uniform CPA Exam.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not

increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on July 5, 2022.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151 and §901.655 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.59. Definition of 150 Semester Hours.

(a) To be eligible to take the UCPAE, an applicant must hold at a minimum a baccalaureate degree, conferred by a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education), and have completed the board-recognized coursework identified in this section:

(1) no fewer than 30 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Qualified Accounting Courses) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024);

(2) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Definitions of Related Business Subjects and Ethics Courses);

(3) a 3-semester-hour board-approved ethics course as defined by §511.58 of this chapter; and

(4) academic coursework at an institution of higher education as defined by §511.52 of this chapter, when combined with paragraphs (1) - (3) of this subsection meets or exceeds 150 semester hours. A maximum of 9 total semester credit hours of undergraduate or graduate independent study courses and/or internships, as defined in §511.51(b)(4) or §511.51(b)(5) of this chapter (relating to Educational Definitions) respectively, may be considered as academic coursework to meet this paragraph. Of the 9 total semester credit hours of undergraduate or graduate independent study and/or internships courses, a maximum of 3 semester credit hours may apply to accounting content subject to paragraph (1) of this subsection and a maximum of 3 semester credit hours may apply to business courses subject to paragraph (2) of this subsection. Semester credit hours may not be applied to both accounting content as found in paragraph (1) of this subsection and business courses as found in paragraph (2) of this subsection concurrently.

~~[(a) An individual holding at least a baccalaureate degree shall complete additional academic courses to meet the board's 150 semester hours or quarter hour equivalents of courses. The hours from a course that has been repeated will be counted only once toward the required 150 semester hours, and may be earned in one of the following ways:]~~

~~[(1) Complete a master's degree or higher degree conferred by an institution of higher education that is recognized by the board; or]~~

~~[(2) Complete the upper level accounting courses needed to take the UCPAE as defined in §511.57 of this chapter (relating to Qualified Accounting Courses). The hours required for a baccalaureate degree plus the additional hours must equal or exceed 150 semester hours; or]~~

~~[(3) Complete additional semester hours or quarter hour equivalents of upper level courses that enhance professional skills and competence, beyond the accounting hours required for a baccalaureate degree in accounting, from a university that is recognized by the board. The hours required for a baccalaureate degree plus the additional hours must equal or exceed 150 semester hours. The coursework should be in established courses offered through colleges, i.e.: architecture, business administration, communications, engineering, fine arts, liberal arts, science, or another established discipline, within the university.]~~

(b) An individual holding a baccalaureate degree conferred by a board-recognized institution of higher education, as defined by §511.52 of this chapter, and who has not completed the requirements of this section shall meet the requirements by taking coursework in one of the following ways:

(1) complete upper level or graduate courses at a board recognized institution of higher education as defined in §511.52 of this chapter that meets the requirements of subsection (a)(1) - (3) of this section; or

(2) enroll in a board recognized community college as defined in §511.54 of this chapter (relating to Recognized Texas Community Colleges) and complete board approved accounting or business courses that meet the requirements of subsection (a)(1) - (3) of this section. Only specified accounting and business courses that are approved by the board will be accepted as not all courses offered at a community college are accepted.

~~[(b) Any CPA review course offered by an institution of higher education or a proprietary organization shall not be used to meet the board's 150 semester hour requirement.]~~

(c) The following courses, courses of study, certificates, and programs may not be used to meet the 150-semester hour requirement:

(1) any CPA review course offered by an institution of higher education or a proprietary organization; and

(2) remedial or developmental courses offered at an educational institution.

~~[(e) An individual may use a three semester credit hour undergraduate business internship and a three semester credit hour graduate business internship toward the required 150 semester hours.]~~

(d) The hours from a course that has been repeated will be counted only once toward the required 150 semester 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 May 19, 2022.

TRD-202201937

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 305-7842



CHAPTER 519. PRACTICE AND PROCEDURE SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §519.9

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.9 concerning Administrative Penalty Guidelines.

Background, Justification and Summary

The rule graphic lists the Texas State Treasurer which is a state agency that no longer exists. The proposed revision deletes the reference to that state agency.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment is to avoid the possible confusion of identifying a state agency that no longer exists.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment, and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses be-

cause the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on July 5, 2022.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151 and §901.655, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§519.9. *Administrative Penalty Guidelines.*

(a) The following table contains guidelines for the assessment of administrative penalties in disciplinary matters. In determining whether a violation is minor, moderate or major, the board will apply the factors to be considered set forth in §901.552(b) of the Act (relating to Amount of Penalty). In all cases where the board has determined a violation has occurred, administrative costs may be assessed, regardless of any other sanction imposed by the board.

Figure: 22 TAC §519.9(a)

[Figure: 22 TAC §519.9(a)]

(b) The amounts specified in subsection (a) of this section are guidelines only. The board retains the right to increase or decrease the amount of an administrative penalty based on the circumstances of each case it considers.

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201936

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 305-7842

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 133. HOSPITAL LICENSING SUBCHAPTER C. OPERATIONAL REQUIREMENTS

25 TAC §133.52

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §133.52, concerning Hospital-Owned or Hospital-Operated Freestanding Emergency Medical Care Facilities.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (S.B.) 2038, 87th Legislature, Regular Session, 2021, which, in part, added Texas Health and Safety Code (HSC) Chapter 241, Subchapter I-1. S.B. 2038 requires certain hospital-owned or hospital-operated freestanding emergency medical care (FEMC) facilities exempt from FEMC facility licensure to comply with certain fee and price disclosure requirements, prohibits FEMC facilities from charging certain fees, and prohibits certain pricing practices.

S.B. 2038 requires an applicable hospital-owned or hospital-operated FEMC facility to disclose its prices for any testing and vaccination services the facility offers for an infectious disease for which a state of disaster has been declared. S.B. 2038 prohibits the FEMC facility from charging a facility or observation fee for a health care service the facility provides an individual accessing the service from a vehicle. During a declared state of disaster, S.B. 2038 prohibits a hospital-owned or hospital-operated FEMC facility from charging an "unconscionable price," as defined by HSC §241.224, for products and services provided by the facility or intentionally charging a third-party payor a higher price than an individual for the same product or service.

The proposed new rule also implements HHSC's authority under S.B. 2038 to impose an administrative penalty if a hospital-owned or hospital-operated FEMC facility violates the prohibition in S.B. 2038 of certain pricing practices during a declared state of disaster.

SECTION-BY-SECTION SUMMARY

Proposed new §133.52 sets forth the applicability of the section, defines "unconscionable price," requires applicable hospital-owned or hospital-operated FEMC facilities to comply with the provisions of S.B. 2038, and outlines HHSC's authority to impose an administrative penalty if an FEMC facility required to comply with this section violates HSC §241.224.

FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, there will be an estimated additional cost to local government as a result of enforcing and administering the rule as proposed. HHSC lacks the data to provide an estimate of the amounts as they are specific to applicable FEMC facilities owned or operated by hospital districts or municipally or county owned licensed hospitals. Enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state government.

Trey Wood has also determined that for each year of the first five years that the rule will be in effect, there may be an increase in administrative penalties collected by HHSC as a result of enforcing and administering the rule as proposed which could increase revenue to state government. HHSC does not have the ability to estimate what the increase in revenue, if any, may be as the agency is not able to predict how many facilities may violate a provision subject to an administrative penalty or the outcome of any future enforcement actions or administrative penalty amounts.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that there could be an adverse economic effect on rural communities because there may be costs to comply for an FEMC facility that is subject to the required pricing disclosure requirements for testing and vaccination services if the FEMC facility offers such services.

There are currently two licensed hospitals owned by rural communities and no licensed hospitals meeting the definition of a small business or a micro-business.

HHSC is proposing this rule to comply with statute and has no regulatory flexibility in doing so.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Stephen Pahl, Deputy Executive Commissioner for Regulatory Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be publicly accessible information consistent with statutory requirements and prohibitions for certain fees and prices charged by applicable hospital-owned or hospital-operated FEMC facilities during declared states of disaster, which will likely enhance the health and safety of Texans.

Trey Wood has also determined that for the first five years the rule is in effect, persons who are required to comply with the proposed rule may incur economic costs because there may be costs to comply for an applicable hospital-owned or hospital-operated FEMC facility that is subject to the required pricing disclosure requirements for testing and vaccination services if the FEMC facility offers such services. The agency is unable to provide an estimate regarding the specific costs to entities to comply with the rule as proposed.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 701 W. 51st Street, Austin, Texas 78751; or emailed to HCR_PRU@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R032" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Health and Safety Code §241.026, which authorizes the Executive Commissioner of HHSC to adopt rules governing development, establishment, and enforcement standards for the construc-

tion, maintenance, and operation of licensed hospitals; and §241.225, which authorizes HHSC to impose a penalty for a violation of the prohibition on charging an unconscionable price during a state of disaster declared by the governor under Government Code Chapter 418.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §241.026 and §241.225.

§133.52. Hospital-Owned or Hospital-Operated Freestanding Emergency Medical Care Facilities.

(a) This section applies only to a freestanding emergency medical care (FEMC) facility, as that term is defined by Texas Health and Safety Code (HSC) §254.001 (relating to Definitions), that is:

(1) exempt from the licensing requirements of HSC Chapter 254 (relating to Freestanding Emergency Medical Care Facilities) under HSC §254.052(5), (7), or (8); and

(2) associated with a hospital licensed under HSC Chapter 241 (relating to Hospitals) and this chapter that does not meet the conditions of participation for certification under Title XVIII of the Social Security Act (42 U.S.C. §1395 et seq.).

(b) This section does not apply to an FEMC facility associated with a hospital licensed under HSC Chapter 241 and this chapter that:

(1) has been operating as a hospital for less than one year;

(2) has submitted an application to a federally recognized accreditation program for certification under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.); and

(3) has not failed an accreditation for certification.

(c) In this section, "unconscionable price" means a price that is more than 200 percent of the average price for the same or a substantially similar product or service provided to other individuals by health care facilities located in the same or nearest county to the county in which the FEMC facility is located, as applicable, according to data collected by the Texas Department of State Health Services under HSC Chapter 108 (relating to Health Care Data Collection).

(d) In accordance with HSC §241.222 (relating to Certain Fees Prohibited), an FEMC facility that provides a health care service, including testing or vaccination, to an individual accessing the service from the individual's vehicle may not charge the individual or a third-party payor a facility or observation fee.

(e) In accordance with HSC §241.223 (relating to Disclosure of Certain Prices and Fees During Declared Disaster; Construction), an FEMC facility that provides testing or vaccination for an infectious disease for which a state of disaster has been declared under Texas Government Code Chapter 418 (relating to Emergency Management), shall disclose to each patient the prices the facility charges for the test or vaccine and any facility fees, supply costs, and other costs associated with the test or vaccine in accordance with the disclosure requirements described by HSC §254.156 (relating to Disclosure Statement Required).

(f) In accordance with HSC §241.224 (relating to Prohibited Pricing Practices During Declared State of Disaster), during a state of disaster declared by the Governor under Texas Government Code Chapter 418, an FEMC facility may not:

(1) charge an individual an unconscionable price for a product or service provided at the facility; or

(2) knowingly or intentionally charge a third-party payor, including a health benefit plan insurer, a price higher than the price

charged to an individual for the same product or service based on the payor's liability for payment or partial payment of the product or service.

(g) Subsection (f)(2) of this section does not prohibit an FEMC facility from:

(1) offering an uninsured individual a cash discount for a particular product or service; or

(2) accepting directly from an individual full payment for a health care product or service in lieu of submitting a claim to the individual's health benefit plan.

(h) This section may not be construed as expanding the type of health care services an FEMC facility is authorized to provide under HSC Chapter 241 or this chapter.

(i) Pursuant to HSC §241.225 (relating to Enforcement), and except for good cause shown, the Texas Health and Human Services Commission shall impose the following applicable penalty on a hospital licensed under this chapter and HSC Chapter 241 that violates subsection (f) of this section or HSC §241.224:

(1) for the first violation, an administrative penalty of \$10,000;

(2) for the second violation:

(A) an administrative penalty of \$50,000; and

(B) a suspension of the hospital's license for 30 days;

and

(3) for the third violation, a permanent revocation of the hospital's license.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201969

Karen Ray

Chief Counsel

Department of State Health Services

Earliest possible date of adoption: July 3, 2022

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



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 509. FREESTANDING EMERGENCY MEDICAL CARE FACILITIES

SUBCHAPTER C. OPERATIONAL REQUIREMENTS

26 TAC §509.69

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §509.69, concerning Fees and Prices.

BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (S.B.) 2038, 87th Legislature, Regular Session, 2021, which, in part, amended Texas Health and Safety Code (HSC) Chapter 254, Subchapter D. S.B. 2038 requires licensed freestanding emergency medical care (FEMC) facilities to comply with certain fee and price disclosure requirements, prohibits FEMC facilities from charging certain fees, and prohibits certain pricing practices.

S.B. 2038 requires an FEMC facility to disclose its prices for any testing and vaccination services the facility offers for an infectious disease for which a state of disaster has been declared. S.B. 2038 prohibits an FEMC facility from charging a facility or observation fee for a health care service the facility provides an individual accessing the service from a vehicle. During a declared state of disaster, S.B. 2038 prohibits an FEMC facility from charging an "unconscionable price," as defined by HSC §254.160, for products and services provided by the facility or intentionally charging a third-party payor a higher price than an individual for the same product or service.

The proposed new rule also implements HHSC's authority under S.B. 2038 to impose an administrative penalty if an FEMC facility violates the prohibition in S.B. 2038 of certain pricing practices during a declared state of disaster.

SECTION-BY-SECTION SUMMARY

Proposed new §509.69 defines "unconscionable price," requires a licensed FEMC facility to comply with the provisions of S.B. 2038, and outlines HHSC's authority to impose an administrative penalty if a licensed FEMC facility violates HSC §254.160.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that there will be an adverse economic effect on small businesses or micro-businesses be-

cause there may be costs to comply for an FEMC facility that is subject to the required pricing disclosure requirements for testing and vaccination services if the FEMC facility offers such services.

There are a total of 218 licensed FEMC facilities that may be required to comply with the pricing disclosures under the rule. HHSC does not have the ability to estimate the number of small businesses, micro-businesses, and rural communities because it is unknown how many facilities subject to the rule offer the services subject to pricing disclosure under the rules. No licensed FEMC facilities meet the definition of a rural community.

HHSC is proposing this rule to comply with statute and has no regulatory flexibility.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Stephen Pahl, Deputy Executive Commissioner for Regulatory Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be publicly accessible information consistent with statutory requirements and prohibitions for certain fees and prices charged by FEMC facilities during declared states of disaster, which will likely enhance the health and safety of Texans.

Trey Wood has also determined that for the first five years the rule is in effect, persons who are required to comply with the proposed rule may incur economic costs because there may be costs to comply for an FEMC facility that is subject to the required pricing disclosure requirements for testing and vaccination services if the FEMC facility offers such services. The agency is unable to provide an estimate regarding the specific costs to entities to comply with the rule as proposed.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 701 W. 51st Street, Austin, Texas 78751; or emailed to HCR_PRU@hhs.texas.gov.

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

indicate "Comments on Proposed Rule 22R032" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Health and Safety Code §254.101, which authorizes HHSC to adopt rules regarding FEMC facilities; and §254.207, which authorizes HHSC to impose a penalty for a violation of the prohibition on charging an unconscionable price during a state of disaster declared by the governor under Government Code Chapter 418.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §254.101 and §254.207.

§509.69. Fees and Prices.

(a) In this section, "unconscionable price" means a price that is more than 200 percent of the average price for the same or a substantially similar product or service provided to other individuals by health care facilities located in the same or nearest county to the county in which the freestanding emergency medical care facility is located, as applicable, according to data collected by the Texas Department of State Health Services under Texas Health and Safety Code (HSC) Chapter 108 (relating to Health Care Data Collection).

(b) In accordance with HSC §254.160 (relating to Prohibited Practices During Declared State of Disaster), during a state of disaster declared by the Governor under Texas Government Code Chapter 418 (relating to Emergency Management), a facility may not:

(1) charge an individual an unconscionable price for a product or service provided at the facility; or

(2) knowingly or intentionally charge a third-party payor, including a health benefit plan insurer, a price higher than the price charged to an individual for the same product or service based on the payor's liability for payment or partial payment of the product or service.

(c) Subsection (b)(2) of this section does not prohibit a facility from:

(1) offering an uninsured individual a cash discount for a particular product or service; or

(2) accepting directly from an individual full payment for a health care product or service in lieu of submitting a claim to the individual's health benefit plan.

(d) In accordance with HSC §254.1556 (relating to Disclosure of Certain Prices and Fees During Declared Disaster; Construction), a facility that provides testing or vaccination for an infectious disease for which a state of disaster has been declared under Texas Government Code Chapter 418, shall disclose the price the facility charges for the test or vaccine and any facility fees, supply costs, and other costs associated with the test or vaccine in accordance with the disclosure requirements described by HSC §254.156 (relating to Disclosure Statement Required).

(e) In accordance with HSC §254.1555 (relating to Certain Fees Prohibited), a facility that provides a health care service, including testing or vaccination, to an individual accessing the service from the individual's vehicle may not charge the individual or a third-party payor a facility or observation fee.

(f) Pursuant to HSC §254.207 (relating to Enforcement), and except for good cause shown, the Texas Health and Human Services Commission shall impose the following applicable penalty on a facility licensed under this chapter and HSC Chapter 254 (relating to Freestanding Emergency Medical Care Facilities) that violates subsection (b) of this section or HSC §254.160:

(1) for the first violation, an administrative penalty of \$10,000;

(2) for the second violation:

(A) an administrative penalty of \$50,000; and

(B) a suspension of the facility's license for 30 days; and

(3) for the third violation, a permanent revocation of the facility's license.

(g) This section may not be construed as expanding the type of health care services a facility is authorized to provide under HSC Chapter 254 or this chapter.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201972

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: July 3, 2022

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



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER I. VALUATION PROCEDURES

34 TAC §9.4001

The Comptroller of Public Accounts proposes amendments to §9.4001, concerning valuation of open-space and agricultural lands. These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land. The proposed updated manual may be viewed at <https://comptroller.texas.gov/taxes/property-tax/rules/index.php>.

The amendments update and revise the October 2020 manual for the appraisal of agricultural land. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agricultural and open-space land under Tax Code, Chapter 23, Subchapters C and D.

Generally, the substantive changes to the manual reflect statutory changes. The manual is updated throughout to reflect the elimination of the annual interest rate component from the calculation of the rollback tax in response to House Bill 3833, 87th Legislature, R.S. (2021). In addition, the updated manual adds interest to the rollback tax if it becomes delinquent. The updated manual excludes chicken coops or rabbit pens used for the non-

commercial production of food for personal consumption as real property and therefore are no longer eligible for taxation pursuant to House Bill 2535, 87th Legislature, R.S. (2021). The manual is also updated throughout to reflect the changes to the application process and the added deadlines to implement Senate Bill 63, 87th Legislature, R.S. (2021).

The proposed manual implements Senate Bill 725, 87th Legislature, R.S. (2021) by adding the specific circumstances for which special appraisal does not end when the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area. The years, values and figures were updated to be more recent.

Pursuant to Tax Code, §23.52(d), these rules have been approved by the Comptroller with the review and counsel of the Department of Agriculture.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by conforming the rule to current statute and improving the clarity and implementation of the section. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

These amendments are proposed under Tax Code, §§5.05 (Appraisal Manuals and Other Materials); 23.41 (Appraisal); and 23.52 (Appraisal of Qualified Agricultural Land), which authorize the comptroller to prepare and issue publications relating to the appraisal of property and to promulgate rules specifying the methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

These amendments implement Tax Code, Chapter 23, Subchapters C and D.

§9.4001. Valuation of Open-Space and Agricultural Lands.

Adoption of the "Manual for the Appraisal of Agricultural Land." This manual specifies the methods to apply and the procedures to use in qualifying and appraising land used for agriculture and open-space land under Tax Code, Chapter 23, Subchapters C and D. Appraisal districts are required to use this manual in qualifying and appraising open-space land. The Comptroller of Public Accounts adopts by reference the Manual for the Appraisal of Agricultural Land dated February 2022 [June 2020]. The manual is accessible on the Property Tax Assistance Division website. Copies of the manual can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528. Copies also may be re-

quested by calling our toll-free number 1-800-252-9121. In Austin, call (512) 305-9999.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201979

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: July 3, 2022

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



PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

SUBCHAPTER C. TEXAS SCHOOL EMPLOYEES GROUP HEALTH (TRS-ACTIVECARE)

34 TAC §41.33

The Board of Trustees of the Teacher Retirement System of Texas (TRS) proposes amendments to §41.33, concerning Definitions Applicable to the Texas School Employees Uniform Group Health Coverage Program, under Subchapter C (relating to Texas School Employees Group Health (TRS-ActiveCare) of Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

The purpose of the proposed amendments is to add new language that would expand the definition of "Employee" and "Part-time Employee" to include Medicare-eligible individuals that meet all the other requirements in the rule, even if they are receiving coverage from a program under Insurance Code Chapter 1551 (relating to the Texas Employees Group Benefits Act), Chapter 1575 (relating to the Texas Public School Employees Group Benefits Program), and Chapter 1601 (relating to Uniform Insurance Benefits Act for Employees of the University of Texas System and the Texas A&M University System).

This is in compliance with the Medicare Secondary Payer (MSP) law (42 U.S.C. §1395y(b)(1)(A)(i)(I)) which prohibits group health plans that offer coverage based on an individual's current employment status from discriminating against those who are eligible for Medicare. On June 8, 2021, the U.S. Court of Appeals for the 6th Circuit issued its opinion in *River City Fraternal Order of Police Lodge 614, Inc. v. Kentucky Retirement System*, (999 F.3d 1003). The case resolved that in the absence of a law that states otherwise, a state retirement system cannot take away retirement health plan benefits from a retiree that returns to work solely because they decided to return to work after retirement. The case also confirmed that the new employer is required to offer that returning-to-work retiree the health plan it offers to employees due to current employment status if that employee is eligible for Medicare. The

current language of Rule 41.33 needs to be amended to comply with the interpretation of the MSP law under this case, since it currently does not allow TRS and participating entities to offer TRS-ActiveCare to returning-to-work retirees who are Medicare eligible, if they are receiving retirement benefits under Chapters 1551, 1575, and 1601 of the Insurance Code.

To remedy this issue, TRS proposes amending Rule 41.33 to re-define the terms "Employee" and "Part-time Employee" so that, if the person meets the other requirements of the definitions and is Medicare eligible, but is nevertheless receiving coverage from the programs under Chapters 1551, 1575, and 1601 of the Insurance Code, such person would still meet those definitions, and thus be eligible to participate in TRS-ActiveCare. This will allow TRS and participating entities to offer TRS-ActiveCare to such employees in compliance with the MSP law.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended rule 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 the proposed amended rule will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the amended rule will be to give retirees the flexibility to choose TRS-ActiveCare. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amended rule.

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 the proposed amendments. 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 the proposed amended rule. 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, the proposed amendments 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 expand, limit or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended rule, 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 the proposed amended rule 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

The amendments are proposed under the authority of Insurance Code §1579.052, which allows the trustee to adopt rules relating to the program as considered necessary by the trustee and requires the trustee to take the actions it considers necessary to devise, implement, and administer the program; Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board; and Clause 2 of Article VI of the United States Constitution ("the Supremacy Clause").

CROSS-REFERENCE TO STATUTE

The proposed amendments affect Chapter 1579, Insurance Code, which establishes the Texas School Employees Uniform Group Health Coverage (TRS-ActiveCare).

§41.33. Definitions Applicable to the Texas School Employees Uniform Group Health Coverage Program.

The following words and terms when used in this subchapter or in connection with the administration of Chapter 1579, Insurance Code, shall have the following meanings unless the context clearly indicates otherwise:

(1) **Dependent--**Only those individuals described by §1579.004, Insurance Code, and an individual under 26 years of age ("child") who is described by any one of the following subparagraphs (A), (B), or (C) at all times during which the child is receiving coverage under TRS-ActiveCare.

(A) A child under the legal guardianship of a full-time or part-time employee;

(B) A full-time or part-time employee's grandchild whose primary residence is the household of that full-time or part-time employee if the grandchild is a dependent of the full-time or part-time employee for federal income tax purposes for the reporting year in which coverage of the grandchild is in effect; or

(C) A child in a regular parent-child relationship with a full-time or part-time employee, meaning that the child's primary residence is the household of that full-time or part-time employee, the full-time or part-time employee provides at least 50% of the child's support, neither of the child's natural parents reside in that household, and the full-time or part-time employee has the legal right to make decisions regarding the child's medical care.

(D) For clarification and without intending to identify all persons who are not a Dependent for purposes of coverage, even though the individual may be in a dependent relationship with a full-time or part-time employee, the following are not included in the definition of Dependent in this section:

(i) Other than the spouse of a full-time or part-time employee, a Dependent does not include an individual who is a "participating member" as defined in paragraph (5) of this section.

(ii) A Dependent does not include a parent or grandparent of a full-time or part-time employee.

(iii) A Dependent does not include a brother or a sister of a full-time or part-time employee unless the brother or sister is an unmarried individual under 26 years of age who is either:

(I) under the legal guardianship of a full-time or part-time employee; or

(II) in a regular parent-child relationship with a full-time or part-time employee, meaning that the brother or sister's primary residence is the household of that full-time or part-time employee, the full-time or part-time employee provides at least 50% of the brother or sister's support, neither of the brother or sister's natural parents reside in that household, and the full-time or part-time employee has the legal right to make decisions regarding the brother or sister's medical care.

(2) Full-time employee--A participating member who:

(A) is currently employed by a participating entity;

(B) is employed in a position that is eligible for membership in the Teacher Retirement System of Texas; and

(C) is not receiving coverage as an employee or retiree from a uniform group insurance or health benefits program under the Texas Employees Group Benefits Act (Chapter 1551, Insurance Code), or the State University Employees Uniform Insurance Benefits Act (Chapter 1601, Insurance Code) or the Texas Public School Retired Employees Group Benefits Act (Chapter 1575, Insurance Code, also known as TRS-Care). Notwithstanding this paragraph, an individual who is eligible to Medicare, and meets the criteria in subparagraphs (A) and (B) of this paragraph will be considered a full-time employee.

(3) HMO--A health maintenance organization holding a valid certificate of authority issued by the Texas Department of Insurance and approved by TRS to provide health care benefits to eligible full-time and part-time employees and their eligible dependents.

(4) Participating entity--An entity participating in TRS-ActiveCare including a school district; another educational district whose employees are members of the retirement system; a regional education service center; and a charter school that meets the requirements of Chapter 1579, Insurance Code. An entity is considered to be participating in TRS-ActiveCare on and after the first date coverage becomes effective for its employees.

(5) Participating member--A person defined by §822.001 and §822.002, Government Code, whose membership in the retirement system has not been terminated as described by §§822.003 - 822.006, Government Code, and who is required to contribute to the Teacher Retirement System of Texas pension trust fund in accordance with §825.403, Government Code.

(6) Part-time employee--An individual who:

(A) is currently employed by a participating entity for 10 hours or more each week;

(B) is employed in a position that is not eligible for membership in the Teacher Retirement System of Texas or is not eligible for membership in the Teacher Retirement System of Texas because of a service or disability retirement; and

(C) is not receiving coverage as an employee or retiree from a uniform group insurance or health benefits program under the Texas Employees Group Benefits Act (Chapter 1551, Insurance Code) or the State University Employees Uniform Insurance Benefits Act (Chapter 1601, Insurance Code) or the Texas Public School Retired Employees Group Benefits Act (Chapter 1575, Insurance Code, also known as TRS-Care). Notwithstanding this paragraph, an individual

who is eligible to Medicare, and meets the criteria in subparagraphs (A) and (B) of this paragraph will be considered a part-time employee.

(7) Plan year--A plan year begins on the first day of September and ends on the last day of the following August.

(8) TRS-ActiveCare--The health benefits program under the Texas School Employees Uniform Group Health Coverage Act, Chapter 1579, Insurance Code.

(9) Trustee or TRS--The Teacher Retirement System of Texas acting in its capacity as trustee under Chapter 1579, Insurance Code.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201961

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 542-3528



PART 9. TEXAS BOND REVIEW BOARD

CHAPTER 190. ALLOCATION OF STATE'S LIMIT ON CERTAIN PRIVATE ACTIVITY BONDS

SUBCHAPTER A. PROGRAM RULES

34 TAC §§190.1, 190.2, 190.4, 190.8

The Texas Bond Review Board (BRB) proposes amendments to Texas Administrative Code Title 34, Part 9, Chapter 190, Subchapter A, §190.1 General Provisions; §190.2 Allocation and Reservation System; §190.4 Filing Requirements for Applications for Carryforward; and §190.8 Notices, Filings, and Submissions.

Background and Justification:

The BRB proposes updates and clarifications to its administrative code rules in Texas Administrative Code Chapter 190 relating to the BRB's administration of the state's Private Activity Bond (PAB) program. An overview of the changes proposed for Texas Administrative Code, Chapter 190 is as follows:

Provide applicants with further clarification on the appropriate dataset that shall be used to determine residential rental priority,

Include guidance on the additional application requirements for an application for carryforward designation, which substantially mirrors the requirements for an application for reservation,

Provide official guidance on the timeframe in which a fee must be received relative to the corresponding filing submission and deadline, and

Correct or eliminate any outdated language.

Fiscal Impact on State and Local Government:

Robert Latsha, Executive Director for the BRB, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the amendments of these rules. The anticipated economic cost to persons who are required to comply with the amendments, as proposed, is minimal to none.

Public Benefit:

Mr. Latsha also has determined that for each year of the first five years the rule amendments are in effect the anticipated public benefit will be providing applicants with further clarification on the appropriate dataset that shall be used to determine residential rental priority, including guidance on the additional application requirements for an application for carryforward designation and providing official guidance on the timeframe in which a fee must be received relative to the corresponding filing submission and deadline.

Government Growth Impact Statement:

The BRB provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed amendments to 34 Texas Administrative Code Part 9, Chapter 190, Subchapter A. For each year of the first five years the proposed amendments are in effect, Mr. Latsha has determined:

- 1) The proposed rule amendments do not create or eliminate a government program; instead, the proposed amendments streamline and modernize the current PAB program to meet staff's current administration of the program.
- 2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- 3) Implementation of the proposed rule amendments does not require an increase or decrease in future legislative appropriations to the BRB.
- 4) The proposed rule amendments do not require an increase or decrease in fees paid to the BRB.
- 5) The proposed rule amendments do not create a new regulation.
- 6) The proposed rule amendments do not repeal an existing BRB rule for an administrative process.
- 7) The proposed rule amendments do not decrease the number of individuals subject to the rule's applicability.
- 8) The proposed repeal does not positively or adversely affect the state's economy.

Fiscal Impact on Small and Microbusinesses and Rural Communities:

The proposed amendments will have no adverse economic effect on micro-businesses, small businesses, or rural communities because the amendments only affect the administration of the PAB program. The proposed amendments do not affect operations of any small or microbusiness, and the proposed amendments should not have an impact on rural communities that differs from any other part of the state. The proposed amendments do not affect any local economy within the state.

One-for-One Rule Analysis:

The proposed amendments do not impose a cost on regulated persons, including other state agencies, special districts, or local governments because the proposed amendments merely streamline administration of the PAB program.

Takings Impact Assessment:

The proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and, therefore, they do not constitute a taking under Texas Government Code §2007.043.

Environmental Rule Analysis:

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

Public Comment:

Comments on the proposal may be submitted in writing to Robert Latsha, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292. Comments may also be submitted electronically to rob.latsha@brb.texas.gov or faxed to (512) 475-4802. The deadline for providing comments is thirty days after publication in the *Texas Register*.

Statutory Authority:

The amendments are proposed under Texas Government Code §1372.004, which authorizes the BRB to adopt rules relating to its administration of the PAB program. They are also proposed under Texas Government Code §1372.006, which authorizes the BRB to require fees, and Texas Government Code §1372.0321, which authorizes the BRB to prioritize reservations among issuers of qualified residential rental project issues. The statutory basis that authorizes BRB to designate an unencumbered state ceiling to an issuer is Texas Government Code §1372.073.

No other statute, articles, or codes are affected by the proposed rule amendments.

§190.1. General Provisions.

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

(c) Definition of terms. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (2) (No change.)

(3) Application fee--Application fees are to be paid as required by Government Code §1372.006 and must be submitted by either overnight delivery, ~~or~~ messenger, or electronically as described in §190.8(c), (d) and (e) ~~[and (d)]~~ of this title (relating to Notices, Filings, and Submissions).

(4) Application for carryforward--

(A) (No change.)

(B) In the instance where an issuer is seeking to utilize the allowable number of days to close under the Act and the closing deadline is after December 31 [24], the application for nontraditional carryforward is a letter sent from the issuer to the board, received before ~~[not later than]~~ December 24th of the program year, notifying the board of intent to close on the applicable date. The letter should include estimated closing date, docket number, and bond amount.

(5) - (13) (No change.)

(14) Carryforward--

(A) Traditional Carryforward--The amount of the state ceiling not reserved before November 16 and any amount previously reserved that becomes available on or after that date because of a reservation cancellation or any other reason.

(B) (No change.)

(15) - (17) (No change.)

(18) Certification regarding fees--The notice given to the board by the issuer or authorized representative of the issuer stating that either a check for a required fee was sent by overnight delivery or a required fee was sent electronically as described in §190.8(c), (d) and (e) [and (d)] of this title (relating to Notices, Filings, and Submissions) in a timely manner.

(19) - (57) (No change.)

(58) Unencumbered State Ceiling--Any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending on the last business day of the year which may be assigned by the board, in the order received, to a state issuer or to an issuer that was created to act on behalf of this state at the request of the issuer.

(59) [(58)] Unexpended proceeds--Proceeds remaining from a prior issue of bonds, including, in the case of qualified mortgage bonds, any unused portion of mortgage credit certificates.

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

§190.2. Allocation and Reservation System.

(a) The state's ceiling shall be determined for each calendar year by the executive director based upon the most recent census estimate of the resident population of the state published by the Bureau of the Census prior to the beginning of such calendar year. The amount of the state ceiling shall be published on the board's website [web-site] in January each year and shall be updated on the site at least weekly thereafter.

(b) - (c) (No change.)

(d) The order of priority for reservations in the category described in Government Code §1372.022(a)(4) shall further be determined as provided in Government Code §1372.0321 and Government Code §1372.0231.

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

(6) When determining the priority level of an application established under Government Code §1372.0321, the applicant shall use the most current data available on October 1 of the year preceding the program year in which allocation is being sought, unless specifically otherwise provided in federal or state law or in this title. All American Community Survey (ACS) data must be five year estimates, and any reference to median income in this title shall be synonymous with median family income unless otherwise specified. [Pursuant to Government Code §2306.6703(a)(2)(C), any multifamily issuer who indicates that they plan to redeem bonds within the first five years may not receive a reservation while there is a waiting list in their priority level established under Government Code §1372.0321, or if there is a waiting list in the applicable uniform state services region, as referenced in Government Code §1372.0231.]

(e) - (p) (No change.)

§190.4. Filing Requirements for Applications for Carryforward.

(a) (No change.)

(b) Application Filing. The issuer shall submit one electronic copy or one original application for carryforward. Each application must be accompanied by the following:

(1) the application fee;

(2) the certificate regarding fees, on the form prescribed by the board;

(3) a copy of the inducement resolution or other similar official action taken by the issuer with respect to the bonds and the project which are the subject of the application, certified by an officer of the issuer; or a copy of the certified resolution of the issuer authorizing the filing of the application for carryforward designation, in either case certified with an authorized signature by an officer of the issuer, and unless the resolution authorizes the issuer to seek a carryforward designation in multiple program years, adopted within 18 months of the application date;

(4) a copy of the issuer's articles of incorporation as certified by the secretary of state of Texas and bylaws, including amendments thereto and restatements thereof, or alternatively, a certification with an authorized signature by an authorized representative of the issuer that there have been no amendments to the articles of incorporation or bylaws since the last submission of these items to the board;

(5) a copy of the issuer's certificate of continued existence from the secretary of state of Texas dated within 30 days of submission of application; an issuer's certificate of good standing is not an acceptable substitution for this requirement;

(6) a copy of the borrower's and, if the borrower is a partnership, each partner's certificate of good standing from the comptroller of public accounts of Texas, dated within 30 days of submission of application;

(7) documentation evidencing that the project meets all requirements of the elected carryforward priority classification as prescribed by Government Code 1372.063-068;

(8) a written opinion of legal counsel, addressed to the board, to the effect, that the board may rely on the representation contained in the application relating to paragraph (7) of this subsection to fulfill the requirements of the Act;

(9) a written opinion of legal counsel, addressed to the board, stating the bonds are required to be included under the state ceiling and that the issuer is legally authorized to issue bonds for projects of the same type and nature as the project which is the subject of the application. This opinion shall cite by constitutional or statutory reference the provision of the Constitution or law of the state which authorizes the bonds for the project;

(10) for a qualified residential rental project issue, an issuer shall provide a copy of an active executed earnest money contract between the borrower and the seller of the project. The borrower must provide within the close of five business days following the notification of pending designation a copy of an earnest money contract that is in full force and effect or the designation will automatically expire; and

(11) for qualified residential rental project issues where the borrower is an entity that is designated or intends to seek abatement from ad valorem taxation, that intent to seek abatement must be specified on the application for carryforward designation.

(c) - (d) (No change.)

(e) Closing documents. Not later than the fifth business day after the day on which the bonds are closed the issuer shall file with the board:

(1) - (2) (No change.)

(3) a certified copy of the bond resolution authorizing the issuance of bonds, and setting forth the specific principal amount of the bond issue, and unless the resolution authorizes the issuer to seek an allocation in multiple program years, adopted within 18 months of the application date;

(4) - (6) (No change.)

(f) - (g) (No change.)

§190.8. *Notices, Filings, and Submissions.*

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

(e) Fees must be received:

(1) no earlier than 5 business days prior to the corresponding filing; and

(2) no later than 24 hours after the corresponding filing, but in no case may a fee be received after the corresponding filing deadline in order to meet the requirements of that deadline.

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201934

Rob Latsha

Executive Director

Texas Bond Review Board

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 463-1741



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 141. GENERAL PROVISIONS

SUBCHAPTER A. BOARD OF PARDONS AND PAROLES

37 TAC §141.3, §141.5

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 141, Subchapter A, §141.3 and §141.5, concerning general provisions. The amendments are proposed to provide edits for uniformity and consistency throughout the rules and to correct grammatical errors.

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

Mr. Gutiérrez also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be to clarify the procedures in the hearing process. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not

create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code §2006.001(2).

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

The amended rules are proposed under §§508.036, 508.0441, 508.045 and 508.047 Government Code. Section 508.036(b) requires the Board to adopt rules governing the decision-making processes of the Board and parole panels. Section 508.0441(b) requires the Board to develop and implement a policy, which clearly defines when a Board member or parole commissioner should disqualify themselves from voting on a parole decision or the revocation of parole or mandatory supervision. Section 508.045(c) authorizes parole panels with the authority to grant, deny, or revoke parole, revoke mandatory supervision, and conduct parole revocation and mandatory supervision revocation hearings. Section 508.047 requires the members of the Board to meet at least once in each quarter of the calendar year at a site determined by the presiding officer.

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

§141.3. *Board Administration.*

(a) The transaction of business before the Board requires a quorum of the Board and decisions require a majority of the quorum. Four members of the Board constitute a quorum.

(b) The Board shall:

(1) adopt rules which govern the decision-making processes of the Board and parole panels; [-]

(2) prepare information of public interest describing the functions of the Board and make the information available to the public and appropriate state agencies;

(3) comply with federal and state laws related to program and facility accessibility;

(4) prepare annually a complete and detailed written report that meets the reporting requirements applicable to financial reporting provided in the General Appropriations Act and accounts for all funds received and disbursed by the Board during the preceding fiscal year;

(5) develop for Board Members and Parole Commissioners a comprehensive training and education program on the criminal justice system, with special emphasis on the parole process;

(6) develop and implement a training program that each newly hired employee of the Board designated to conduct hearings under [Texas Government Code,] Section 508.281, Government Code,

must complete before conducting a hearing without the assistance of a Board Member or experienced Parole Commissioner or designee;

(7) develop and implement a training program to provide an annual update to designees of the Board on issues and procedures relating to the revocation process;

(8) prepare and biennially update a procedural manual to be used by designees of the Board. The Board shall include in the manual:

(A) descriptions of decisions in previous hearings determined by the Board to have value as precedents for decisions in subsequent hearings;

(B) laws and court decisions relevant to decision making in hearings; and

(C) case studies useful in decision making in hearings;

(9) prepare and update as necessary a handbook to be made available to participants in hearings under Texas Government Code, Section 508.281, such as defense attorneys, persons released on parole or mandatory supervision, and witnesses. The handbook must describe in plain language the procedures used in a hearing under Texas Government Code, Section 508.281;

(10) develop and implement a policy that clearly defines circumstances under which a Board Member or Parole Commissioner should disqualify himself or herself from voting on:

(A) a parole decision; or

(B) a decision to revoke parole or mandatory supervision;

(11) after consultation with the Governor and the Texas Board of Criminal Justice, adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to the Board, the Division, the Department, or the Texas Board of Criminal Justice;

(12) include in the mission statement a description of specific locations at which the Board intends to conduct business related to the operation of the parole process;

(13) adopt rules relating to:

(A) the submission and presentation of information and arguments to the Board, a parole panel, and the Department for and in behalf of an inmate; and

(B) the time, place, and manner of contact between a person representing an inmate and:

(i) a member of the Board or a Parole Commissioner;

(ii) an employee of the Board; or

(iii) an employee of the Department;

(14) develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made; and

(15) adopt a policy establishing the date on which the Board may reconsider for release an inmate who has previously been denied release.

§141.5. *Parliamentary Authority.*

(a) The current edition of [the] Robert's Rules of Order shall govern the conduct of all meetings of the Board except as may be otherwise specified in statutory law or herein.

(b) All documents evidencing the actions taken by the Board during a meeting shall be authenticated by the Presiding Officer's signature pursuant to [the] Robert's Rules of Order.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201963

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 408-5478



SUBCHAPTER B. RULEMAKING

37 TAC §141.57

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 141, Subchapter B, §141.57, concerning rulemaking. The amendments are proposed to provide edits for uniformity and consistency throughout the rules.

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

Mr. Gutiérrez also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be to clarify the procedures in the hearing process. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code §2006.001(2).

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

The amended rule is proposed under Section 2001.021, Texas Government Code. Section 2001.021 requires a state agency to provide for public participation in the rulemaking process.

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

§141.57. *Petition for Adoption of Rule.*

- (a) Any interested person may petition the Board requesting the adoption of a rule.
- (b) A petition shall be mailed to the General Counsel of the Texas Board of Pardons and Paroles at P.O. Box 13401, Austin, Texas 78711.
- (c) The petition must be submitted in writing, must be identified as Petition for Adoption of Rule, and must comply with the following requirements:
- (1) each rule requested must be requested by separate petition;
 - (2) each petition must state the name and address of the petitioner;
 - (3) each petition must be delivered to the General Counsel of the Board at its Austin office; and
 - (4) each petition shall include:
 - (A) a brief explanation of the proposed rule; and
 - (B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted in the current text, if any.
- (d) If the General Counsel determines that further information is necessary, the General Counsel may require that the petitioner resubmit the petition and that it contain:
- (1) A statement of statutory authority or authority under which the rule is to be promulgated;
 - (2) Whether there will be an impact on the employment of the local economy;
 - (3) If an adverse economic impact of the proposed rule on small or microbusinesses is identified, the petition shall also contain:
 - (A) An economic impact statement which details the probable effect of the rule on employment in each geographic area affected by the rule for each year of the first five years that the rule will be in effect, and describes alternative methods of achieving the purpose of the proposed rule; and
 - (B) A regulatory flexibility analysis as defined in [Texas Government Code,] Section 2006.002(d), Government Code. In addition to the petition, the person may submit a proposal for the adoption of the proposed rule through negotiated rulemaking. The proposal shall identify the potential participants for the negotiated rulemaking committee, possible third party facilitators, and a timeline for the process.
- (e) Consideration and Disposition of the Petition.
- (1) Except as provided in subsection (f) of this rule, the Chair, in consultation with the General Counsel, shall consider and reject or approve petitions submitted.
 - (2) Within 60 days after receipt of a petition by the General Counsel, or within 60 days after receipt by the General Counsel of a resubmitted petition in accordance with subsection (d) of this rule, the Chair, in consultation with the General Counsel, shall consider the petition and shall either deny it in writing, stating its reasons for denial, or shall initiate rulemaking proceedings in accordance with [the Texas Government Code,] Section 2001.021, Government Code.
 - (3) A petition may be denied for failure to comply with the petition requirements of this rule.
 - (4) If the Chair, in consultation with the General Counsel, denies the petition, the General Counsel shall give the petitioner written notice of the denial and the reasons for the denial.

(f) The General Counsel may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within one year after the date of the initial petition.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201964

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 408-5478



SUBCHAPTER C. SUBMISSION AND PRESENTATION OF INFORMATION AND REPRESENTATION OF OFFENDERS

37 TAC §141.61, §141.72

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 141, Subchapter C, §141.61 and §141.72, concerning submission and presentation of information and representation of offenders. The amendments are proposed to provide edits for uniformity and consistency throughout the rules.

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

Mr. Gutiérrez also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be to clarify the procedures in the hearing process. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code §2006.001(2).

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

The amended rule is proposed under Sections 508.082 and 508.083, Texas Government Code. Section 508.082 requires

the Board to adopt rules relating to the submission and presentation of information and arguments to the Board, a parole panel, and the department for and in behalf of an inmate. Section 508.083 relates to representation of an inmate in a matter before the Board or a parole panel.

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

§141.61. *Representation of an Offender.*

(a) Persons representing an offender pursuant to [Texas Government Code,] Chapter 508, Subchapter C, Government Code, may appear before a member of the Board or Parole panel designated to consider the offender's case.

(b) Requests for appearances by persons representing offenders shall be only submitted when the offender's case is under review, during the review period, and at the discretion of the members of the parole panel designated to review the case.

(c) The time, place, and manner of contact between a person representing an offender and a member of the Board or an employee of the Board shall be established by the members of the parole panel designated to review the case.

(d) For the purpose of this rule, the review period shall mean greater than two months but less than six months prior to the month of the next scheduled review period.

§141.72. *Record of Decisions.*

(a) All Board and parole panel decisions are maintained by the Division [division] as the official custodian of all electronic and paper records obtained and maintained for offenders eligible for parole or mandatory supervision.

(b) The Board shall keep records of their acts concerning clemency matters.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201965

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 408-5478



SUBCHAPTER D. REGISTRATION OF VISITORS AND FEE AFFIDAVITS

37 TAC §141.81, §141.82

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 141, Subchapter D, §141.81 and §141.82 concerning registration of visitors and fee affidavits. The amendments are proposed to provide edits for uniformity and consistency throughout the rules.

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

Mr. Gutiérrez also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to these sections will be to clarify the procedures in the hearing process. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the amended rules as proposed. The amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code §2006.001(2).

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

The amended rules are proposed under Sections 508.036, 508.0441, 508.045, 508.084, 508.313, and 2004.002 Texas Government Code. Section 508.036 authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Sections 508.0441 and 508.045 authorize the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to mandatory supervision and to act on matters of release to mandatory supervision. Section 508.084 requires a person who represents an inmate to file a fee affidavit with the Texas Department of Criminal Justice. Section 508.313 pertains to confidential and privileged information. Section 2004.002 requires an individual, who appears before or contacts a state agency in person or on behalf of another, to register with the state agency and requires the Board to provide for and maintain a record of such registrations.

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

§141.81. *Registration of Visitors.*

Any person who appears before the Board or a parole panel, or before any Board Member, Parole Commissioner, or any Board employee whether in an interview or at a hearing, except those appearing as witnesses at a preliminary and/or revocation hearing or a sex offender condition hearing, for the purpose of submitting or presenting information or arguments for and in behalf of any person within the jurisdiction of the Board, shall register in the record of the Board as required by [Texas Government Code,] Section 2004.002, Government Code. A Board Member, Parole Commissioner, or representative of the Board shall protect the confidentiality of the victim as required by [Texas Government Code,] Section 508.313, Government Code.

§141.82. *Fee Affidavits.*

(a) Any person who represents an inmate for compensation before the Board or any of its members, before a parole panel, or any

Board employee for the purpose of submitting or presenting information or arguments for and in behalf of any person within the jurisdiction of the Board, shall submit before such appearance a completed fee affidavit form to TDCJ.

(b) The completed fee affidavit form shall state whether any fee has been, or is to be paid for his participation or services in the case and all other information required by [~~Texas Government Code,~~ Section 508.084, Government Code.

(c) The submission of a completed fee affidavit is not considered a request for an interview. A copy of the completed fee affidavit shall be submitted to the Board or any of its members, a parole panel, or any Board employee at the time of such an appearance.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201966

Bettie Wells

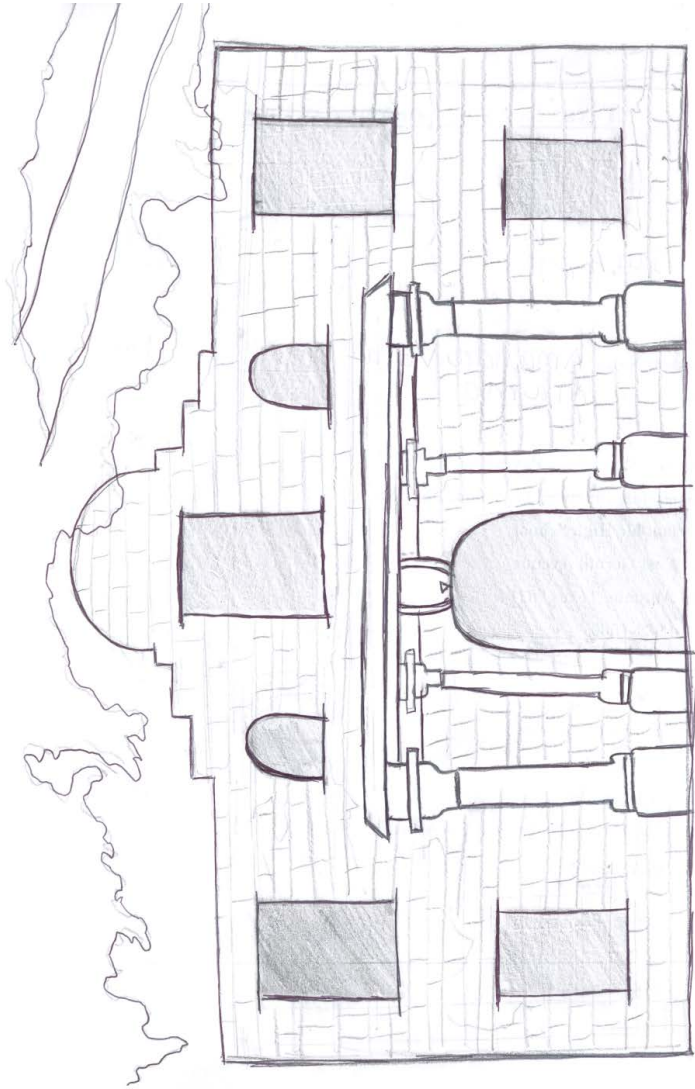
General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: July 3, 2022

For further information, please call: (512) 408-5478





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

SUBCHAPTER B. ADVISORY COMMITTEES

DIVISION 1. COMMITTEES

1 TAC §351.805

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §351.805, concerning State Medicaid Managed Care Advisory Committee. The amendment to §351.805 is adopted without changes to the proposed text as published in the December 10, 2021, issue of the *Texas Register* (46 TexReg 8295), and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The adoption of §351.805 implements changes recommended by the State Medicaid Managed Care Advisory Committee (SMMCAC) in March 2020 and changes recommended by HHSC staff. The adopted rule reorganizes and formats the rule so that the SMMCAC rule is consistent with other HHSC advisory committee rules established under Texas Government Code §531.012.

Based on recommendations, the adopted rule extends the SMMCAC membership terms from two to three years. This change gives members more time to use the experience they gain over time as committee members. The date of abolition is changed from December 31, 2023, to December 31, 2024, to extend the advisory functions of the SMMCAC for one additional year.

The adopted rule changes the maximum number of SMMCAC members from 23 to 24, the maximum allowed by Texas Government Code §2110.002(a). The increase to 24 members allows for the total number of 24 members who may be appointed from the three membership categories.

The adopted rule removes, adds, and reorganizes the nineteen categories used to select and appoint representatives to the SMMCAC into three categories. The first category has subcategories of people enrolled in Medicaid managed care from which 10 people can be appointed as members. The second category has subcategories of providers contracted with Texas Medicaid managed care organizations (MCOs) from which 10 members can be appointed. The third category provides for the appointment of representatives of four MCOs participating in Texas Medicaid, including both national and community-based

plans, and dental maintenance organizations. The adopted rule makes the composition of the SMMCAC more equal between persons enrolled and providers and allows for the appointment of four MCO representatives as members.

The adopted rule, for each subcategory of person enrolled, allows HHSC to appoint the person or to appoint the person's family member or an advocate representing people in the person's subcategory. The term "family member" is defined in §351.801 as a "parent, spouse, grandparent, adult sibling, adult child, guardian, or legally authorized representative." These changes may make it easier for HHSC to appoint a representative from each subcategory of persons enrolled in Medicaid managed care.

The adopted rule includes in the membership subcategory of people enrolled in Medicaid managed care a person age 21 or older with an intellectual, developmental, or physical disability, including a person with autism spectrum disorder (or a family member or advocate). This language allows for a member to represent persons with autism, whose issues previously were within the Texas Autism Committee's jurisdiction.

The adopted rule adds a subcategory for a person who is 21 years of age or older and is dually enrolled in Medicaid and Medicare, and adds a subcategory of providers serving Medicaid recipients who are 21 years of age or older and have a disability. These changes help ensure additional representation on the SMMCAC for adults in these subcategories who are Medicaid recipients.

COMMENTS

The 31-day comment period ended January 10, 2022. During this period, HHSC received one comment from a non-profit community organization. A summary of the comment relating to §351.801 and HHSC's response follow.

Comment: A commenter wrote that the rule changes look great.

Response: HHSC appreciates the commenter's positive statement.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.012, which requires the Executive Commissioner to establish an advisory committee and to adopt rules related to an advisory committee's size, membership, and duty to comply with Texas Government Code Chapter 551.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201967

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 9, 2022

Proposal publication date: December 10, 2021

For further information, please call: (512) 707-6117



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 34. SCHEDULE OF SANCTIONS AND PENALTIES

16 TAC §§34.1 - 34.4, 34.10, 34.20 - 34.22

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts amendments to §§34.1 and 34.2 and new 34.3, 34.4, 34.10, and 34.20 - 34.22, related to Schedules of Sanctions and Penalties. Sections 34.1, 34.3, 34.4, and 34.20 - 34.22 are adopted without changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1785). These rules will not be republished.

New §34.2 and §34.10 are adopted with changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1785). These rules will be republished.

The new and amended rules result from review of chapter 34 of the commission's rules pursuant to the regular four-year review cycle prescribed by Government Code §2001.039. Most of the amendments result from reorganization of Chapters 34 - 37 of the commission's rules to optimize the placement of related rules making relevant rules easier to locate; make updates necessitated by recent legislative enactments or new online portal technology; and make editorial revisions for increased clarity and transparency.

The commission received one public comment at its public hearing on the proposed new and amended rules from Amy Harrison of Amy Harrison Consulting. The commission also received written comments from Griffith & Hughes, PLLC, a law firm that describes itself in its comment letter as "primarily represent(ing) members in the retail tier in TABC administrative enforcement actions."

Comment 1: Amy Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552).

Response 1: The commission received no requests under the TPIA for records regarding the new and amended rules or the rulemaking process used by the commission for this rule package. Therefore, the comment is not relevant to the rule amendments and new rules and no changes have been made to the rules in response to this comment.

Comment 2: Griffith & Hughes commented that proposed amended §34.1(d), relating to written warnings, presents due process concerns depending upon how it is implemented. Specifically, Griffith & Hughes is concerned about the ability of license and permit holders to obtain documentation related to

the warning at the field level. They also request that the commission obtain affirmative waivers of rights upon acceptance of a warning.

Response 2: The proposed amendments to §34.1(d) maintain the status quo and make no substantive changes to the current rule. Like current §34.1(d), the rule proposed to be adopted contains the following provisions: (1) that a written warning is an administrative notice documents that a violation has occurred; (2) that it may be used as an aggravating circumstance in determining the appropriate sanction for a subsequent violation; and (3) that the recipient is entitled to contest the written warning under the Administrative Procedure Act. The amendments reorganize the rule so that it uses the active voice and is structured properly according to principles of rule drafting. If the commenter's concerns have existed in the past, they are not substantively affected by the proposed amendments.

With respect to the concern that documentation of the basis of a written warning is not available to the recipient, it is neither a rule nor a policy of the commission to withhold such information. Moreover, agents are trained that they should only issue a written warning if they have sufficient evidence to document that a violation has occurred; a warning unsupported by evidence is not authorized under §34.1(d). To address this implementation concern, the agency intends to increase the focus on written warning implementation in field agent training programs. Complaints about a field agent's use of or justification for issuing a written warning can be made by emailing enforcement@tabc.texas.gov or by notifying the regional supervisor for the appropriate TABC regional office. Additionally, complaints about an agency employee's conduct can be made to the agency's Office of Inspector General by filling out a complaint form on the TABC's public website, with the option to remain anonymous.

As in other legal contexts and provided by the Administrative Procedure Act, the due process rights of the recipient of a written warning include a right to discovery once a case has been contested by filing a request for hearing. Filing a request for a contested case hearing prior to initiating discovery does not represent a high burden or deprive the license or permit holder of due process.

Griffith & Hughes also requests that the commission obtain affirmative waivers of rights upon acceptance of a written warning and provides draft rule language. Such a waiver is not provided for in statute or rule and is not proposed to be adopted, amended, or repealed by this rulemaking. Any person may petition for the adoption of a new rule under the procedures outlined in Tex. Gov't Code §2001.021. The commission finds that the waiver language currently printed on the written warning and the clearly stated rule laying out the legal effects and rights attached to a written warning provide sufficient notice to the recipient to protect the right to due process. However, in light of this comment, the commission intends to review the waiver language to determine whether revisions or supplemental information would be beneficial.

No changes to the new and amended rules have been made in response to this comment.

Comment 3: Griffith & Hughes comments that Tex. Alco. Bev. Code §5.362 requires that the commission develop a "determinate penalty scheme for common violations," and that therefore, the commission cannot deviate from the suggested penalty listed in the penalty charts in §§34.2 and 34.10, as proposed under §§34.2(d) and 34.10(c). The firm expresses concern that not

requiring that agency enforcement attorneys strictly adhere to a penalty set in a rule may result in their discretion being "vindictively used to punish" those who request a hearing and are therefore referred to legal services. The firm argues that there should be no difference in the latitude for a field agent to assess a penalty different from the charts in the rules and an agency enforcement attorney. Further, Griffith & Hughes states that the agency should still have to seek approval from "their internal client."

Response 3: Although it is not entirely clear to whom the comment refers as the "internal client," agency attorneys consult with the investigating division regarding settlements. If a case results in a Proposal for Decision, the commission must vote on it in an open meeting.

The statute cited, Tex. Alco. Bev. Code §5.362, does not require a "determinate penalty scheme for common violations," which appears to refer to a single, pre-determined penalty set in rule for each violation, from which no commission staff member, agent, or attorney, may deviate. In fact, it specifically requires that the schedule "allow deviations from the schedule for clearly established mitigating circumstances, including circumstances listed in Section 11.64(c), or aggravating circumstances." The statute does not require that each violation of the same statute or rule result in the exact same penalty. Rather, it explicitly contemplates that the unique facts and circumstances of each individual case will be considered. The legislature recognized that the facts and circumstances from one violation or violator to the next can vary significantly, even when the violation cited may be the same. The use of a baseline penalty with latitude for considering aggravating and mitigating factors promotes consistency between violations of the same statute or rule under the same or similar circumstances.

Griffith & Hughes' suggestion that agency attorneys be limited to a single penalty set in rule would also preclude agency and respondent attorneys from reaching a settlement outside of the penalty listed in the chart, hamstringing the agency's ability to settle cases prior to hearing. It would also prevent the agency from complying with its statutory obligations in determining the length of a suspension or the amount of a civil penalty.

Griffith & Hughes also posit that there is nothing about the transfer of a case to agency attorneys as a contested matter that should authorize flexibility in the penalty amount. This assessment ignores provisions specifically authorizing deviation from a baseline penalty and outlining the aggravating and mitigating circumstances the agency must take into account. The statute and rule allow the agency to consider this evidence in either settling a case or recommending a penalty.

The firm's concern about potential abuse of discretion by agency attorneys in coming up with a penalty in a mutually agreed settlement or recommending a penalty to an administrative law judge is speculative. More importantly, neither settlement agreements nor a recommendation to a judge constitutes a unilateral imposition of a penalty by an agency attorney, the penalty is either approved by the respondent itself in signing a settlement agreement or by the commission in voting on the penalty recommended by the administrative law judge in a Proposal for Decision.

No changes to the new and amended rules have been made in response to this comment.

Comment 4: Griffith & Hughes notes the lack of an index of final orders, decisions, and opinions on the commission's website.

Response 4: This comment is not relevant to the rules in this rule package. No changes to the new and amended rules have been made in response to this comment.

The rules are adopted pursuant to the agency's authority under §5.31 of the Alcoholic Beverage Code by which it may prescribe and publish rules necessary to carry out the provisions of the code and Government Code §2001.039, which requires review of each commission rule at least every four years.

§34.2. Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations.

(a) An act or failure to act that results in a violation of the Code or rules that represents a threat to the public health, safety, or welfare will be assessed sanctions and penalties according to Figure 16 TAC §34.2(e) and/or a license or permit suspension or cancellation. Each sanction in Figure 16 TAC §34.2(e) other than cancellation includes an optional monetary penalty of \$300 per day of suspension.

(b) The list of violations in Figure 16 TAC §34.2(e) is non-exclusive; the absence of a statute or rule from the chart does not limit the commission's statutory authority to enforce compliance with the Code and its rules by assessing penalties.

(c) Violations of Code §§11.61(b)(7), 32.17(a)(8), and 61.71(a)(16), and §34.3 of this title, which are not listed in Figure §34.2(e), will be assessed sanctions based upon all relevant facts and circumstances.

(d) For a contested case brought under subchapters C and D of the Administrative Procedure Act or an investigation or violation referred to the legal services division of the commission for resolution, the sanctions and penalties in Figure §34.2 may be used as a guideline but adherence is not required.

(e) Nothing in this rule shall be construed to limit the commission's authority to suspend or cancel a license or permit under §§11.38, 11.61, 32.17, 61.71, 201.075, or any other provision of the Code authorizing suspension or cancellation of a license or permit. Figure: 16 TAC §34.2(e)

§34.10. Sanctions for Regulatory Violations.

(a) Regulatory violations of listed statutory and rule provisions will be assessed a base penalty of \$250, \$500, or \$1,000 as shown in Figure §34.10(g). Base penalties may be augmented or discounted based upon the number of violations and other circumstances surrounding the violation, according to the commission Penalty Policy in effect on the date the violation occurred or on the first date the violation occurred, if it is a violation that is ongoing in nature.

(b) The penalty chart in Figure §34.10 is non-exclusive; the absence of a statute or rule from the chart does not limit the commission's statutory authority to enforce compliance with the Code and its rules by assessing administrative penalties.

(c) For a contested case brought under subchapters C and D of the Administrative Procedure Act or an investigation or violation referred to the legal services division of the commission for resolution, the sanctions and penalties in Figure §34.10 may be used as a guideline but adherence is not required.

(d) Nothing in this rule shall be construed to limit the commission's authority to suspend or cancel a license or permit under §§11.38, 11.61, 32.17, 61.71, 201.075, or any other provision of the Code authorizing suspension or cancellation of a license or permit.

(e) The number of days of license or permit suspension offered to the respondent in lieu of the penalty shall be commensurate with the penalty assessed under this section and calculated according to the

commission Penalty Policy in effect on the date the violation occurred or on the first date the violation occurred, if it is a violation that is ongoing in nature.

(f) The Penalty Policy shall be publicly available and published on the commission's web site.

(g) The commission shall review the Penalty Policy and update or revise it as necessary at least once every seven (7) years.

Figure: 16 TAC §34.10(g)

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201912

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3451



16 TAC §§34.3 - 34.6

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts the repeal of 16 Texas Administrative Code §§34.3 - 34.6 without changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1792) as part of a reorganization of its rules. The rules will not be republished.

Simultaneously with this proposal for repeals, the commission proposes to adopt a new §34.10 to contain the content of current §34.3, with amendments. Additionally, the commission proposes to move §§34.4 - 34.6 to new §§34.20 - 34.22 to facilitate moving them to a new rule chapter currently under development.

The commission received one public comment at its public hearing on the proposed new and amended rules and repeals from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the repeals or the rulemaking process used by the commission for these rule repeals. Therefore, the comment is not relevant to the rule repeals and no changes have been made in response to this comment.

These repeals are adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeals do not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201899

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3451



CHAPTER 35. ENFORCEMENT

16 TAC §§35.2 - 35.4

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts new rules §§35.2 - 35.4, related to Enforcement, without changes to the text as published in the April 8, 2022, edition of the *Texas Register* (47 TexReg 1793). The rules will not be republished.

The new rules result from review of chapters 35 and 36 of the commission's rules pursuant to the regular four-year review cycle prescribed by Government Code §2001.039. The new rules consolidate current rules for better organization; make an update to reflect modern technology; and make other improvements for clarity.

The commission received one comment at its public hearing on the proposed rules from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the rules or the rulemaking process used by the commission for this rule package. Therefore, the comment is not relevant to the new rules and no changes have been made to the rules in response to this comment.

The rules are adopted pursuant to the agency's authority under §5.31 of the Alcoholic Beverage Code by which it may prescribe and publish rules necessary to carry out the provisions of the code and Government Code §2001.039, which requires review of each commission rule at least every four years.

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-202201913

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3451



CHAPTER 35. ENFORCEMENT

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts the repeal of 16 Texas Administrative Code §§35.7, 35.11, 35.21, 35.31, 35.41, 35.50, and 35.51 without changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1796) as part of a reorganization of its rules. The rules will not be republished.

Simultaneously with this proposal for repeals, the commission proposes to adopt new rules to contain the content of the repealed rules, some with changes. The repeals are proposed pursuant to the commission's general powers and duties under §5.31 of the Code.

The commission received one public comment at its public hearing on the proposed new and amended rules and repeals from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the repeals or the rule-making process used by the commission for these rule repeals. Therefore, the comment is not relevant to the rule repeals and no changes have been made in response to this comment.

SUBCHAPTER A. TRANSPORTATION OF LIQUOR

16 TAC §35.7

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201903

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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Proposal publication date: April 8, 2022

For further information, please call: (512) 206-3451



SUBCHAPTER B. PROHIBITED EQUIPMENT

16 TAC §35.11

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201904

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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Proposal publication date: April 8, 2022

For further information, please call: (512) 206-3451

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SUBCHAPTER C. MINORS

16 TAC §35.21

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201905

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3451



SUBCHAPTER D. PLACE OR MANNER

16 TAC §35.31

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201906

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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Proposal publication date: April 8, 2022

For further information, please call: (512) 206-3451



SUBCHAPTER E. DEFINITIONS

16 TAC §35.41

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201907

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

Effective date: June 6, 2022

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For further information, please call: (512) 206-3451



SUBCHAPTER F. INSPECTIONS

16 TAC §35.50, §35.51

These repeals are adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeals do not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201908

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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Proposal publication date: April 8, 2022

For further information, please call: (512) 206-3451



CHAPTER 36. GUN REGULATION

16 TAC §36.1

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts the repeal of 16 Texas Administrative Code §36.1 without changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1798) as part of a reorganization of its rules. The rule will not be republished.

In a separate, simultaneous rulemaking, the content of the rule is adopted into Chapter 35 of the rules, relating to Enforcement.

The commission received one public comment at its public hearing on the proposed new and amended rules and repeals from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the repeal or the rulemaking process used by the commission for this rule repeal. Therefore, the comment is not relevant to the rule repeal and no changes have been made in response to this comment.

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201909

Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

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Proposal publication date: April 8, 2022

For further information, please call: (512) 206-3451



CHAPTER 37. LEGAL SUBCHAPTER B. PENALTIES

16 TAC §37.61

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts the repeal of 16 Texas Administrative Code §37.61, without changes to the text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1799) as part of a reorganization of its rules. The rule will not be republished.

In a separate, simultaneous rulemaking, the content of the rule is adopted into Chapter 34 of the rules, Schedule of Sanctions and Penalties.

The commission received one public comment at its public hearing on the proposed new and amended rules and repeals from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the repeal or the rulemaking process used by the commission for this rule repeal. Therefore, the comment is not relevant to the rule repeal and no changes have been made in response to this comment.

This repeal is adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeal does not impact any other current rules or statutes.

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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Shana Horton

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Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3451



CHAPTER 41. AUDITING

SUBCHAPTER B. RECORDKEEPING AND REPORTS

16 TAC §§41.17 - 41.26

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts the repeals of 16 Texas Administration Code §§41.17 - 41.26 without changes to the text as published in the April 8, 2022, edition of the *Texas Register* (47 TexReg 1800) as part of a reorganization of its rules. The rules will not be republished.

Current rule §35.11 relates to Bottle Capping Devices. The commission proposes to repeal it from its current location and simultaneously readopt it at §41.17, adjacent to another rule related to devices used for sealing alcoholic beverages. The juxtaposition of the two rules will help users understand the circumstances under which such sealing devices are allowable and when they are prohibited. Inserting the rule in the desired location requires the commission to repeal the remainder of the rules in Chapter 41, Subchapter B. In a separate rulemaking, the commission proposes to simultaneously adopt the rules but shifted down by one rule number.

The commission received one public comment at its public hearing on the proposed new and amended rules and repeals from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding these repeals or the rulemaking process used by the commission for these rule repeals. Therefore, the comment is not relevant to the repeals and no changes have been made in response to this comment.

These repeals are adopted pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The adopted repeals do not impact any other current rules or statutes.

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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16 TAC §§41.17 - 41.27

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts new rules §§41.17 - 41.27, related to Recordkeeping and Reports, without changes to the text as published in the April 8, 2022, edition of the *Texas Register* (47 TexReg 1801). The rules will not be republished.

In a separate, simultaneous rulemaking, the commission repeals §35.11, relating to Bottle Capping Devices, from its current location and readopts it at §41.17, adjacent to §41.16, Tamper-proof

Containers, which also relates to devices used for sealing alcoholic beverages. The juxtaposition of the two rules will help users understand the circumstances under which sealing devices are allowed and when they are prohibited. Inserting the rule in the desired location requires the commission to repeal and re-adopt the remainder of the rules in Chapter 41, Subchapter B, shifted down by one rule number. There are no amendments to the text of the rules.

The commission received one public comment at its public hearing on the proposed new rules from Amy Harrison of Amy Harrison Consulting. Harrison asked general questions related to the intersection of the rulemaking process and the Texas Public Information Act ("TPIA," Tex. Gov't Code Ch. 552). The commission received no requests under the TPIA for records regarding the new rules or the rulemaking process used by the commission for this rule package. Therefore, the comment is not relevant to the new rules and no changes have been made to the rules in response to this comment.

The rules are adopted pursuant to the agency's authority under §5.31 of the Alcoholic Beverage Code, by which it may prescribe and publish rules necessary to carry out the provisions of the code.

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

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CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER AND DELIVERY DRIVER TRAINING

SUBCHAPTER F. CONSUMER DELIVERY

16 TAC §50.33

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) adopts new rule §50.33, related to Alcohol Delivery Compliance Applications, without changes as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1804). The rule will not be republished.

New rule §50.33 is identical to former rule §35.7, Alcohol Delivery Compliance Software Applications, which is repealed in a separate, simultaneous rulemaking. The commission incorporates this rule into Chapter 50 of its rules because the chapter contains other rules related to alcohol delivery.

The commission received no public comments regarding the proposed rule.

The rule is adopted pursuant to the agency's authority under §5.31 of the Alcoholic Beverage Code by which it may prescribe and publish rules necessary to carry out the provisions of the code.

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

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 66. STATE ADOPTION AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING TECHNOLOGY AND INSTRUCTIONAL MATERIALS ALLOTMENT

19 TAC §66.1307

The Texas Education Agency (TEA) adopts an amendment to §66.1307, concerning technology and instructional materials allotment. The amendment is adopted without changes to the proposed text as published in the March 11, 2022 issue of the *Texas Register* (47 TexReg 1167). The rule will not be republished. The adopted amendment provides clarifications based on House Bill (HB) 1525 and HB 3261, 87th Texas Legislature, Regular Session, 2021, updates terminology, makes technical edits, and removes outdated information.

REASONED JUSTIFICATION: The rules in Chapter 66, Subchapter CC, implement Texas Education Code, §31.0211, which establishes the instructional materials and technology allotment and gives the commissioner rulemaking authority over the allotment. The adopted amendment updates the subchapter as follows.

The title of §66.1307, Technology and Instructional Materials Allotment, has been updated to "Instructional Materials and Technology Allotment" to align with the name of the allotment used in statute. Subsection (a) was also updated to reflect this change.

The adopted amendment updates allowable purchases and expenses using allotment funds based on HB 1525 and HB 3261, 87th Texas Legislature, Regular Session, 2021, and outlines district considerations related to the purchase of technological equipment.

In addition, the adopted amendment makes technical edits and update the outdated term EMAT with "the state ordering system."

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 11, 2022, and ended April 11, 2022. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §31.0211, as amended by House

Bill (HB) 1525 and HB 3261, 87th Texas Legislature, Regular Session, 2021, which authorizes the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, which requires the commissioner to adopt rules regarding the documentation required for requisitions and disbursement to be approved, rules regarding districts' online instructional materials ordering system accounts, and rules requiring school districts to submit to the commissioner the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0215, which authorizes the commissioner to adopt rules regarding allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.0231, which requires the commissioner to adopt rules regarding the Commissioner's List of Instructional Materials, including electronic or other tools, models, and investigative materials for Kindergarten-Grade 5 science and Kindergarten-Grade 8 personal financial literacy, various requirements for adoption, criteria the materials must meet, coverage of the Texas Essential Knowledge and Skills, teacher training, accessibility standards, and allowed changes; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.076, which authorizes the commissioner to adopt rules regarding state-developed open-source instructional materials; and TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§31.0211, as amended by House Bill (HB) 1525 and HB 3261, 87th Texas Legislature, Regular Session, 2021; 31.0212; 31.0215; 31.0231; 31.029; 31.031; 31.076; and 31.104.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

The Texas Education Agency (TEA) adopts amendments to §§89.1040, 89.1050, 89.1053, 89.1055, and 89.1151, concerning special education services. The amendments are adopted without changes to the proposed text as published in the February 11, 2022 issue of the *Texas Register* (47 TexReg 630) and will not be republished. The adopted amendments will implement House Bill (HB) 785, 87th Texas Legislature, Regular Session, 2021, by addressing requirements for functional behavioral assessments, behavior improvement plans, behavioral intervention plans, and notification and documentation of certain circumstances. In addition, the adopted amendments will extend the time limit for requesting a due process hearing beginning September 1, 2022, in alignment with HB 1252, 87th Texas Legislature, Regular Session, 2021. The adopted amendments will also allow a student's multidisciplinary team to include a physician assistant or an advanced practice registered nurse.

REASONED JUSTIFICATION: The rules in Chapter 89, Subchapter AA, address provisions for special education services, including general provisions and clarification of federal regulations and state law. The adopted amendments will update rules as follows.

Division 2, Clarification of Provisions in Federal Regulations and State Law

Section 89.1040, Eligibility Criteria, will be amended in subsection (c)(8) to allow for the multidisciplinary team that makes the determination of a student's other health impairment to include a physician assistant or an advanced practice registered nurse. This change will address a petition for rulemaking submitted by Texas Nurse Practitioners under 19 TAC §30.1001, Petition for Adoption of Rule Changes. The commissioner reviewed the petition and approved the initiation of rulemaking.

Section 89.1050, The Admission, Review, and Dismissal Committee, will be amended in subsection (k) to include additional requirements regarding functional behavioral assessments and the development of a behavior improvement plan or behavioral intervention plan when a student with a disability undergoes a disciplinary change of placement. This change will implement HB 785, 87th Texas Legislature, Regular Session, 2021. In addition, a non-substantive technical correction will be made in subsection (c)(3)(B) to clarify that the language applies to students who are suspected or documented to be deaf or hard of hearing. The phrase "or documented" will be reinstated after being inadvertently deleted in a previous amendment to the section.

Section 89.1053, Procedures for Use of Restraint and Time-Out, will be amended in subsection (e)(5) to modify the information a school district must report to a student's parent or guardian when restraint has been used. The adopted new language will include additional requirements related to behavior improvement plans or behavioral intervention plans and functional behavioral assessments. Subsection (i) will be amended to add requirements related to the documentation of time-out. These changes will implement HB 785, 87th Texas Legislature, Regular Session, 2021.

Section 89.1055, Content of the Individualized Education Program, will be amended in subsection (g) to require the admission, review, and dismissal committee to review a student's behavior improvement plan or behavioral intervention plan at least annually to address specific behaviors. This change will implement HB 785, 87th Texas Legislature, Regular Session, 2021.

Division 7, Dispute Resolution

Section 89.1151, Special Education Due Process Hearings, will be amended in subsection (c) to change the time limit for requesting a due process hearing from one year to two years beginning September 1, 2022. This change will implement HB 1252, 87th Texas Legislature, Regular Session, 2021, which added Texas Education Code (TEC), §29.0164. The new statute prohibits the commissioner or agency from adopting or enforcing a rule that establishes a shorter period than the maximum timeline designated under 20 U.S.C. §1415(b)(6) and (f)(3) for filing a due process complaint alleging a violation of state or federal special education laws and requesting an impartial due process hearing. The one-year time limit for filing a special education due process complaint established in §89.1151(c) is shorter than the time period provided in federal law and, therefore, must be amended.

SUMMARY OF COMMENTS AND AGENCY RESPONSES:

The public comment period on the proposal began February 11, 2022, and ended March 14, 2022. Public hearings to solicit testimony and input on the proposal were held on February 22, 2022 and March 4, 2022, via Zoom. Following is a summary of the public comments received and agency responses.

Comment: An individual communicated support for the proposed changes to §89.1040.

Response: The agency agrees.

Comment: Texas Nurse Practitioners communicated support for the proposed changes to §89.1040.

Response: The agency agrees.

Comment: The Texas Association of School Psychologists (TASP) and six Texas Licensed Specialists in School Psychology (LSSPs) commented support for the expansion of the multidisciplinary team to include a physician assistant or an advanced practice registered nurse. The commenters also asked that the expansion of qualified professionals for the specific condition of attention deficit hyperactivity disorder (ADHD) include licensed psychologists both inside and outside of the school setting.

Response: The agency agrees that the change to allow a physician assistant or an advanced practice registered nurse to be included in the student's multidisciplinary team expands the number of medical professionals able to provide necessary services to children. The agency disagrees with the commenters' request to expand the list of qualified professionals for the specific condition of ADHD to include licensed psychologists. The agency determined it is not appropriate to add the suggestions at this time. However, the agency anticipates providing related guidance in the future.

Comment: The Texas Medical Association commented opposition to the proposed change in §89.1040(c)(8) to include a physician assistant or advanced practice registered nurse with authority delegated under Texas Occupations Code, Chapter 157, on the grounds that the physician should not be removed from the student's multidisciplinary team because only a physician can make the final medical diagnosis and that advanced practice nurses and physician assistants do not have the same education and training.

Response: The agency disagrees. The change does not remove or exclude the physician from participating in the student's multidisciplinary team. The change allows a physician assistant or advanced practice registered nurse to participate in the student's multidisciplinary team at the discretion of the physi-

cian under authority delegated under Texas Occupations Code, Chapter 157. The amendment to allow physician assistants and advanced practice registered nurses, under the authority of the physician, to participate in the student's multidisciplinary team helps increase access to medical professionals for students and families, including those residing in remote rural areas.

Comment: An LSSP commented that HB 785, 87th Texas Legislature, Regular Session, 2021, places an undue burden on local education agencies (LEAs) and assessment personnel while being unnecessarily punitive to LEAs with good practices.

Response: This comment addresses the requirements of HB 785, 87th Texas Legislature, Regular Session, 2021, and, as such, falls outside the scope of the proposed rulemaking.

Comment: The Texas Psychological Association proposed a further amendment to §89.1040 to allow a licensed psychologist to serve on the multidisciplinary team in lieu of a physician or their delegate if a student's other health impairment is based on a mental health diagnosis.

Response: The agency disagrees and provides the following clarification. Licensed psychologists may be included to serve on the multidisciplinary team; however, eligibility for other health impairment (OHI) requires a physician or physician assistant or advanced practice nurse to also be included on the student's multidisciplinary team in determining eligibility under OHI.

Comment: An individual commented that the term "time-out" is not adequately defined in the proposed §89.1053.

Response: The agency disagrees. TEC, §37.0021(b)(3), defines time-out. The definition in the rule mirrors the definition in statute. Additionally, time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program (IEP) and/or behavior improvement plan or behavioral intervention plan if it is utilized on a recurrent basis to increase or decrease a targeted behavior, and, as such, the conditions for the use of time-out would be based on the student's individual needs described in the student's IEP.

Comment: The Coalition of Texans with Disabilities (CTD), Disabilities Rights of Texas (DRTx), The Arc of Texas, Easterseals Central Texas, and Texans for Special Education Reform suggested that TEA change the title of §89.1053 to "Procedures for Use of Restraint, Time-Out, and Prohibition of Aversive Techniques." The commenters also recommended that TEA amend §89.1053(a) to add reference to TEC, §37.0023, with regard to the policy of the state to treat with dignity and respect all students, including students with disabilities.

Response: The agency disagrees that additional descriptors are needed in the rule title or rule language. Rules on the use of time-out and restraint are provided in §89.1053.

Comment: CTD, DRTx, Texas Council for Developmental Disabilities (TCDD), The Arc of Texas, Easterseals Central Texas, and Texans for Special Education Reform recommended that TEA amend §89.1053(b) to add the definition of "aversive techniques" as defined in TEC, §37.0023(a).

Response: The agency disagrees. TEC, §37.0023(a), defines "aversive techniques," and adding the definition to §89.1053(b) would not provide additional clarification.

Comment: CTD, DRT, The Arc of Texas, Easterseals Central Texas, and Texans for Special Education Reform recommended that TEA add a new subsection (n) in §89.1053 to read, "Pro-

hibited use of aversive techniques. A school district or school district employee or volunteer or an independent contractor of a school district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied to a student."

Response: The agency disagrees. TEC, §37.0023, prohibits the use of aversive techniques, and adding language to the commissioner's rule would not provide additional clarification.

Comment: A parent suggested adding a clear, concise definition of the term "restraint" in §89.1053.

Response: The agency disagrees. The statutory definition for restraint is found in TEC, §37.0021(b)(1). The definition in the rule mirrors the definition in statute.

Comment: TCDD proposed that TEA update the definition of "emergency" in §89.1053(b).

Response: This comment falls outside the scope of the proposed rulemaking since it relates to language in the rule that was not posted for amendment.

Comment: A parent suggested adding a requirement to §89.1053(e) that there be a mandatory admission, review, and dismissal (ARD) committee meeting held whenever the student's circumstances change or the student exhibits new behavior or that a mandatory manifestation determination meeting be held when the student is undergoing a change in placement.

Response: The agency disagrees that additional language is needed in §89.1053(e). Adopted new §89.1053(e)(5)(K) requires the LEA to provide information to the parent or guardian for how to schedule an ARD meeting. Additionally, requirements for holding an ARD meeting to determine if the student's behavior is a manifestation of the student's disability are found in 34 Code of Federal Regulations (CFR) §300.530(e).

Comment: A parent suggested adding language to §89.1053(e) allowing parents to request another functional behavior assessment (FBA) and that updated training be provided on the use of restraint and the requirements of parental notification after a restraint has occurred.

Response: The agency disagrees that additional language is needed in §89.1053(e). Adopted new §89.1053(e)(5)(K) addresses when the LEA shall notify the parent in regard to conducting an FBA. Additionally, a parent or guardian can request at any time that the LEA conduct an FBA. The agency disagrees that training in addition to what is already required is necessary after each use of restraint.

Comment: Texans for Special Education Reform, CTD, DRT, the Arc of Texas, Texas Parent2Parent, Easterseals Central Texas, and TCDD recommended §89.1053(e)(5) be revised to state that written notification must be provided for each incidence or use of restraint in order to ensure that parents receive documentation of every separate use of restraint and that such documentation be placed in a child's special education eligibility folder.

Response: The agency disagrees. Section 89.1053(e) requires that each use of restraint be documented. This requirement extends to §89.1053(e)(5).

Comment: TCDD recommended adding language in §89.1053(e)(5) that would require the LEA to record the observation of a student at the conclusion of a restraint. The commenter stated that the observation should not be completed by the person who implemented the restraint but

by an impartial person such as a nurse or a school-based mental health professional. The commenter further stated that the observation should include the physical, mental, and/or emotional state of the student. Additionally, the CTD, DRT, the Arc of Texas, Easterseals Central Texas, and Texans for Special Education Reform recommended that the agency amend §89.1053(e)(5)(I) to read, "observation of the student's physical demeanor and mental and emotional state at the end of each restraint, as observed by school nurse, school-based mental health professional, or if either unavailable, a third party not involved directly or indirectly with each restraint."

Response: The agency disagrees. Section 89.1053(e) requires that each use of restraint be documented, and that requirement extends to §89.1053(e), which includes training and documentation requirements for persons engaging in use of restraint. However, the agency anticipates providing related guidance in the future.

Comment: A community member recommended striking §89.1053(h), or, as an alternative, the commenter suggested amending 89.1053(h) so that the language requires a general training on time-out by school staff, does not require training within 30 days of being assigned a student whose behavior plan includes time-out, and removes the portion that would require a student-specific training.

Response: The agency disagrees. Removing the training requirements in §89.1053(h) contradicts the requirements of HB 785, 87th Texas Legislature, Regular Session, 2021, and TEC, §37.0021(d)(1-2). Additionally, TEA disagrees that requiring training in the use of time-out within 30 school days for persons being assigned the responsibility of implementing time-out places undue burden on LEAs. Finally, 89.1053(h) does not require student-specific training.

Comment: An individual commented generally in support of the amendment to §89.1151(c) related to the statute of limitations for filing a request for a due process hearing.

Response: The agency agrees.

DIVISION 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS AND STATE LAW

19 TAC §§89.1040, 89.1050, 89.1053, 89.1055

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §29.001, which establishes general statutory authority for the state to develop, implement, and monitor a statewide plan for special education; TEC, §29.005, as amended by House Bill (HB) 785, 87th Texas Legislature, Regular Session, 2021, establishes requirements regarding the content of a student's individualized education program; TEC, §29.0164, as added by HB 1252, 87th Texas Legislature, Regular Session, 2021, which prohibits the commissioner or agency from adopting or enforcing a rule that establishes a shorter period than the maximum timeline designated under 20 U.S.C. §1415(b)(6) and (f)(3) for filing a due process complaint alleging a violation of state or federal special education laws and requesting an impartial due process hearing; TEC, §37.0021, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021, which establishes requirements related to the use of confinement, restraint, seclusion, and time-out; TEC, §37.004, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021, which establishes requirements related

to placement determinations of students eligible for special education and related services; 34 Code of Federal Regulations (CFR), §300.8, which establishes definitions of eligibilities under special education; and 34 CFR, §300.511, which establishes the requirements for impartial special education due process hearings.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§29.001; 29.005; 29.0164, as added by House Bill (HB) 1252, 87th Texas Legislature, Regular Session, 2021; 37.0021; and 37.004, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021; and 34 Code of Federal Regulations, §300.8 and §300.511.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



DIVISION 7. DISPUTE RESOLUTION

19 TAC §89.1151

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §29.001, which establishes general statutory authority for the state to develop, implement, and monitor a statewide plan for special education; TEC, §29.005, as amended by House Bill (HB) 785, 87th Texas Legislature, Regular Session, 2021, establishes requirements regarding the content of a student's individualized education program; TEC, §29.0164, as added by HB 1252, 87th Texas Legislature, Regular Session, 2021, which prohibits the commissioner or agency from adopting or enforcing a rule that establishes a shorter period than the maximum timeline designated under 20 U.S.C. §1415(b)(6) and (f)(3) for filing a due process complaint alleging a violation of state or federal special education laws and requesting an impartial due process hearing; TEC, §37.0021, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021, which establishes requirements related to the use of confinement, restraint, seclusion, and time-out; TEC, §37.004, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021, which establishes requirements related to placement determinations of students eligible for special education and related services; 34 Code of Federal Regulations (CFR), §300.8, which establishes definitions of eligibilities under special education; and 34 CFR, §300.511, which establishes the requirements for impartial special education due process hearings.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§29.001; 29.005; 29.0164, as added by House Bill (HB) 1252, 87th Texas Legislature, Regular Session, 2021; 37.0021; and 37.004, as amended by HB 785, 87th Texas Legislature, Regular Session, 2021; and 34 Code of Federal Regulations, §300.8 and §300.511.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER EE. ACCREDITATION STATUS, STANDARDS, AND SANCTIONS

DIVISION 1. STATUS, STANDARDS, AND SANCTIONS

19 TAC §97.1061, §97.1064

The Texas Education Agency (TEA) adopts amendments to §97.1061 and §97.1064, concerning accreditation status, standards, and sanctions. The amendments are adopted with changes to the proposed text as published in the March 4, 2022 issue of the *Texas Register* (47 TexReg 1052) and will be republished. The adopted amendments reflect the changes established by Senate Bill (SB) 1365, 87th Texas Legislature, Regular Session, 2021.

REASONED JUSTIFICATION: Section 97.1061 outlines requirements for interventions and sanctions if a campus' performance is below any standard.

SB 1365, 87th Texas Legislature, Regular Session, 2021, added Texas Education Code (TEC), §39.0543 and §39A.065. TEC, §39.0543, defines which performance ratings correlate to acceptable performance, unacceptable performance, and performance that needs improvement. TEC, §39A.065, establishes a requirement for school districts, open-enrollment charter schools, district campuses, or charter school campuses that are assigned a rating of D that qualify under TEC, §39.0543(b), to develop and implement a local improvement plan. The adopted amendment to §97.1061 implements the new statutes by adding requirements in new subsection (b) on how schools must develop and keep local improvement plans.

Section 97.1064 outlines requirements for campus turnaround plans if a campus is assigned an unacceptable rating for two consecutive years.

SB 1365 added TEC, §39A.110(c), to allow the commissioner to authorize modification of an approved campus turnaround plan if the commissioner determines that, due to a change in circumstances occurring after the plan's approval, a modification of the plan is necessary to achieve the plan's objectives. The adopted amendment to §97.1064 implements TEC, §39A.110(c), by adding new subsection (l) to specify the conditions under which schools can modify turnaround plans with commissioner approval due to having received the Not Rated; Declared State of Disaster rating.

Based on public comment, two changes were made at adoption.

In §97.1061(b), the requirement for a local improvement plan to be developed and implemented using a web-based platform was removed. The modified language requires the plan to use guidance provided by TEA.

In §97.1064(l)(1), the phrase "but not limited to" was added in the description of a change in circumstance.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 4, 2022, and ended April 4, 2022. Following is a summary of public comments received and agency responses.

Comment: Two stakeholders commented that, although TEC, §39A.065, authorizes the commissioner to "establish requirements for a local improvement plan components and training," a number of the proposed requirements in §97.061(b) are not related to plan components or training.

Response: The agency disagrees. The requirements listed are related to local improvement plan components and training.

Comment: Five stakeholders were concerned about the requirement of using a web-based platform to house local improvement plans.

Response: The agency agrees, and §97.1061(b) has been updated at adoption to remove the web-based platform requirement.

Comment: Four stakeholders requested clarification in the turnaround plan change in circumstances to specify that the circumstances are not limited to those described in the proposed rule.

Response: The agency agrees and has clarified the rule language to include the phrase, "but not limited to."

Comment: Texas School Alliance and one school administrator requested as to when to develop and implement a local improvement plan.

Response: The agency provides the following clarification. Local improvement plans will be implemented beginning with the 2023-2024 school year.

Comment: An individual stated that the rule requirements disregard the fact that the post-pandemic growth indicator is limited and targets were set pre-pandemic.

Response: This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §39.0543, as added by Senate Bill (SB) 1365, 87th Texas Legislature, Regular Session, 2021, which requires the commissioner to adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F; TEC, §39A.065, as added by SB 1365, 87th Texas Legislature, Regular Session, 2021, which requires the commissioner to adopt rules to establish requirements for local improvement plan components and training; and TEC, §39A.110(c), as added by SB 1365, 87th Texas Legislature, Regular Session, 2021, which states that the commissioner may authorize modification of an approved campus turnaround plan if the commissioner determines that due to a change in circumstances occurring after the plan's approval under TEC, §39A.107, a modification of the plan is necessary to achieve the plan's objectives.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§39.0543, 39A.065, and 39A.110(c), as added by Senate Bill 1365, 87th Texas Legislature, Regular Session, 2021.

§97.1061. *Interventions and Sanctions for Campuses.*

(a) If a campus's performance is below any standard under Texas Education Code (TEC), §39.054(e), the campus shall engage in interventions as described by the Texas Education Agency (TEA).

(b) A school district, open-enrollment charter school, district campus, or charter school campus that is assigned a rating of D that qualifies under TEC, §39.0543(b), shall develop and implement a local improvement plan using the guidance provided by TEA. The school district, open-enrollment charter school, district campus, or charter school campus shall:

(1) conduct a data analysis related to areas of low performance;

(2) conduct a needs assessment based on the results of the data analysis, as follows.

(A) The needs assessment shall include a root cause analysis.

(B) Root causes identified through the needs assessment will be addressed in the local improvement plan; and

(3) create a local improvement plan, as follows.

(A) Input must be gathered from the principal; campus-level committee established under TEC, §11.251; parents; and community members, prior to the development of the local improvement plan, using the following steps.

(i) The campus must hold a public meeting at the campus. The campus shall take reasonable steps to conduct the meeting at a time and in a manner that would allow a majority of stakeholders to attend and participate. The campus may hold more than one meeting if necessary.

(ii) The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus.

(iii) All input provided by family and community members should be considered in the development of the final local improvement.

(B) The completed local improvement plan must be presented at a public hearing and approved by the board of trustees.

(c) The commissioner shall assign members to a campus intervention team (CIT) as outlined in §97.1063 of this title (relating to Campus Intervention Team) and TEC, §39A.052.

(d) The campus shall establish a campus leadership team (CLT) that includes the campus principal and other campus leaders responsible for the development, implementation, and monitoring of the targeted improvement plan.

(e) The campus intervention team shall:

(1) conduct a data analysis related to areas of low performance;

(2) conduct a needs assessment based on the results of the data analysis, as follows.

(A) The needs assessment shall include a root cause analysis.

(B) Root causes identified through the needs assessment will be addressed in the targeted improvement plan and, if applicable, campus turnaround plan;

(3) assist in the creation of a targeted improvement plan, as follows.

(A) Input must be gathered from the principal; campus-level committee established under TEC, §11.251; parents; and community members, prior to the development of the targeted improvement plan, using the following steps.

(i) The campus must hold a public meeting at the campus. The campus shall take reasonable steps to conduct the meeting at a time and in a manner that would allow a majority of stakeholders to attend and participate. The campus may hold more than one meeting if necessary.

(ii) The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus.

(iii) All input provided by family and community members should be considered in the development of the final targeted improvement plan submitted to the TEA.

(B) The completed targeted improvement plan must be presented at a public hearing and approved by the board of trustees.

(C) The targeted improvement plan must be submitted to the commissioner of education for approval according to TEA procedures and guidance; and

(4) assist the commissioner in monitoring the implementation of the targeted improvement plan. The campus will submit updates to the TEA as requested that include:

(A) a description of how elements of the targeted improvement plan are being implemented and monitored; and

(B) data demonstrating the results of interventions from the targeted improvement plan.

(f) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a second consecutive year, the campus must engage in the processes outlined in subsections (a), (c), (d), and (e) of this section, and the campus must develop a campus turnaround plan to be approved by the commissioner as described in §97.1064 of this title (relating to Campus Turnaround Plan).

(g) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a third or fourth consecutive year, the campus must engage in the processes outlined in subsections (a), (c), (d), and (e) of this section, and the campus must implement the commissioner-approved campus turnaround plan as described in §97.1064 of this title.

(h) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a fifth consecutive year, the commissioner shall order the appointment of a board of managers to govern the district or closure of the campus.

(i) Based on a campus's progress toward improvement, the commissioner may order a hearing if a campus's performance is below any standard under TEC, §39.054(e).

(j) Interventions and sanctions listed under this section begin upon release of preliminary ratings and may be adjusted based on final accountability ratings.

§97.1064. *Campus Turnaround Plan.*

(a) If a campus is assigned an unacceptable rating under Texas Education Code (TEC), §39.054(e), for two consecutive years, the campus must develop a campus turnaround plan to be approved by the commissioner of education in accordance with TEC, §§39A.103-39A.107.

(b) A charter campus subject to this section must revise its charter in accordance with §100.1033 of this title (relating to Charter Amendment). The governing board of the charter performs the function of the board of trustees for this section.

(c) The district may request assistance from a regional education service center or partner with an institution of higher education in developing and implementing a campus turnaround plan.

(d) Within 60 days of receiving a campus's preliminary accountability rating the district must notify parents, community members, and stakeholders that the campus received an unacceptable rating for two consecutive years and request assistance in developing the campus turnaround plan. All input provided by family, community members, and stakeholders must be considered in the development of the final campus turnaround plan submitted to the Texas Education Agency (TEA).

(e) The district shall notify stakeholders of their ability to review the completed plan and post the completed plan on the district website at least 30 days before the final plan is submitted to the board of trustees as described in TEC, §39A.104. The district shall provide the following groups an opportunity to review and comment on the completed plan before it is submitted for approval to the board of trustees:

(1) the campus-level committee established under TEC, §11.251. If the campus is not required to have a campus-level committee under TEC, §11.251, the district shall provide an opportunity for professional staff at the campus to review and comment on the campus turnaround plan;

(2) teachers at the campus;

(3) parents; and

(4) community members.

(f) A campus turnaround plan must include:

(1) a detailed description of the method for restructuring, reforming, or reconstituting the campus;

(2) a detailed description of the academic programs to be offered at the campus, including instructional methods, length of school day and school year, academic credit and promotion criteria, and programs to serve special student populations;

(3) a detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources;

(4) written comments received from stakeholders described in subsection (e) of this section;

(5) the term of the charter, if a district charter is to be granted for the campus under TEC, §12.0522; and

(6) a detailed description for developing and supporting the oversight of academic achievement and student performance at the campus, approved by the board of trustees under TEC, §11.1515.

(g) Upon approval of the board of trustees, the district must submit the campus turnaround plan electronically to the TEA by March 1 unless otherwise specified.

(h) Not later than June 15 of each year, the commissioner must either approve or reject any campus turnaround plan prepared and submitted by a district.

(1) The commissioner's approval or rejection of the campus turnaround plan must be in writing.

(2) If the commissioner rejects a campus turnaround plan, the commissioner must also send the district an outline of the specific concerns regarding the turnaround plan that resulted in the rejection.

(3) In accordance with TEC, §39A.107(a), the commissioner may approve a campus turnaround plan if the commissioner determines that the campus will satisfy all student performance standards required under TEC, §39.054(e), not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. In order to make that determination, the commissioner will consider the following:

(A) an analysis of the campus and district's longitudinal performance data, which may be used to measure the expected outcomes for the campus;

(B) the district's success rate in turning around low-performing campuses, if applicable; and

(C) evaluation of the efficacy of the plan, with consideration given to whether the turnaround plan is sufficient to address the specific and expected needs of the campus.

(i) A district must submit a modified campus turnaround plan if the commissioner rejected the district's initial submission.

(1) The modified plan must be created with assistance from TEA staff, as requested by the district.

(2) The modified plan must be made available for stakeholder comment prior to board approval and be approved by the board prior to submission to the TEA.

(3) The district must submit the plan no later than the 60th day from the date the commissioner rejected the initial campus turnaround plan.

(4) The commissioner's decision regarding the modified plan must be given in writing no later than the 15th day after the commissioner receives the plan.

(j) A campus may implement, modify, or withdraw its campus turnaround plan with board approval if the campus receives an academically acceptable rating for the school year following the development of the campus turnaround plan.

(k) A campus that has received an unacceptable rating for the school year following the development of the campus turnaround plan must implement its commissioner-approved campus turnaround plan with fidelity until the campus operates for two consecutive school years without an unacceptable rating.

(l) A campus may modify its campus turnaround plan with commissioner approval if it is determined that due to a change in circumstances occurring after the plan's approval under TEC, §39A.107, a modification of the plan is necessary to achieve the plan's objectives.

(1) A change in circumstance may be the following, but not limited to:

(A) a campus that has written a turnaround plan but has not yet been ordered to implement it and has received a Not Rated; Declared State of Disaster rating for two consecutive years prior to receiving its next F rating; or

(B) a campus that has implemented its turnaround plan for no more than one year prior to receiving a Not Rated; Declared State of Disaster rating for two consecutive years.

(2) A campus that has modified its turnaround plan under this subsection may only request additional modifications to the plan based on circumstances that have changed since the last commissioner-approved modification.

(3) Any modification of a turnaround plan must be effective no sooner than the beginning of the next school year.

(m) The commissioner may appoint a monitor, conservator, management team, or board of managers for a school district that has a campus that has been ordered to implement an updated targeted improvement plan. The commissioner may order any of the interventions as necessary to ensure district-level support for the low-performing campus and the implementation of the updated targeted improvement plan. The commissioner may make the appointment at any time during which the campus is required to implement the updated targeted improvement plan.

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

Filed with the Office of the Secretary of State on May 18, 2022.

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



CHAPTER 104. ACCELERATED INSTRUCTION

19 TAC §104.1001

The Texas Education Agency (TEA) adopts new §104.1001, concerning accelerated instruction. The new section is adopted with changes to the proposed text as published in the January 21, 2022 issue of the *Texas Register* (47 TexReg 147). The section will be republished. The adopted new section implements House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, by updating requirements for accelerated instruction and establishing new requirements for accelerated learning committees and related student supports.

REASONED JUSTIFICATION: HB 4545, 87th Texas Legislature, Regular Session, 2021, amended Texas Education Code (TEC), §28.0211 and §28.0217, to remove grade advancement requirements and focus on the provision of accelerated instruction and related supports for students who have failed to perform satisfactorily on assessments required under TEC, §39.023. Adopted new §104.1001 clarifies the statutory changes to accelerated instruction and outlines new requirements related to accelerated learning committees and related student supports.

Specifically, new §104.1001 clarifies which assessment instruments are subject to accelerated instruction requirements, when accelerated instruction can and cannot be provided, the requirements of accelerated instruction, options other than accelerated

instruction, and the requirements for an accelerated learning committee, including its membership.

New §104.1001 also addresses the applicability of HB 4545 to students served by special education. The new rule clarifies admission, review, and dismissal (ARD) committee responsibilities in connection with accelerated instruction committees and an ARD committee's responsibility to ensure a free appropriate public education in connection with accelerated instruction.

Based on public comment, the following three revisions were made at adoption.

New subsection (a) was added to define supplemental accelerated instruction in order to provide clarity in terms used throughout the rule.

Subsection (b)(3) was modified to correct a clerical error that referenced an incorrect TEC provision.

Subsection (f)(3) was modified to clarify the requirement under TEC, §28.0211(f), for an admission, review, and dismissal committee serving as an accelerated learning committee to develop a plan for a student served by special education to participate in supplemental accelerated instruction.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began January 21, 2022, and ended February 22, 2022, and included two public hearings. Following is a summary of public comments received and agency responses.

Comment: The Texas Public Charter Schools Association (TPCSA) commented that TEA's HB 4545 FAQ provides that charter schools and districts of innovation do not need to apply for a TEA waiver from certified classroom requirements. TPCSA requested that TEA also waive strict adherence with HB 4545 for the 2022-2023 school year. TPCSA requested that TEA work with state leadership to provide an average daily attendance hold harmless or additional operational minute adjustments for the 2021-2022 school year. TPCSA encouraged TEA to ensure all Texas COVID Learning Acceleration Supports, tutor supports, and tools are carefully and thoughtfully aligned to the Texas Essential Knowledge and Skills (TEKS) with emphasis on frequently assessed student expectations, the new TEA TEKS scope and sequence, and the new TEA interim or benchmark State of Texas Assessments of Academic Readiness (STAAR®) assessments and are at the level of rigor required for STAAR® success. Specifically, TPCSA urged TEA to consider a systematic alignment and quality control process and stated that TEA should provide HB 4545 supports for all STAAR® tested subjects and grades, including middle and high school.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Disability Rights Texas (DRTx) commented that TEA should amend proposed new §104.1001(e)(3) to clarify that ARD committees must meet in accordance with TEC, §28.0211(f), which requires that accelerated instruction committees meet no later than the start of the subsequent school year. DRTx stated that TEA should direct that ARD committees that are serving as the accelerated instruction committee adhere to the same deadline. DRTx also recommended that TEA amend proposed subsection (e)(5) to clarify that ARD committees must describe the reason the student is eligible for supplemental accelerated instruction in the statement of the student's present levels of academic achievement and functional performance in the student's individualized education program (IEP). DRTx also stated

that TEA should amend proposed subsection (e)(5) to clarify that ARD committees must consider and address special transportation needs of students with disabilities in accordance with TEC, §28.0211(j), which requires that local educational agencies (LEAs) provide students required to attend supplemental accelerated instruction with transportation if the supplemental accelerated instruction occurs outside of regular school hours. DRTx stated that TEA should direct that an ARD committee serving as the accelerated instruction committee plan for and arrange special transportation as a related service if necessary.

Response: The agency agrees that proposed subsection (e)(3), relettered as subsection (f)(3) at adoption, should be clarified to include by when the plan must be established. Subsection (f)(3) has been modified at adoption to specify that, in serving as the accelerated learning committee for a student served by special education, the ARD committee must meet and develop a plan in accordance with TEC, §28.0211(f), to determine the manner in which the student will participate in supplemental accelerated instruction, and this meeting must include the required members of a properly constituted ARD committee as described in 19 TAC §89.1050, The Admission, Review, and Dismissal Committee. The agency disagrees that proposed subsection (e)(5) requires the ARD committee serving as the accelerated learning committee (ALC) to document its decisions regarding supplemental accelerated instruction for the student in writing and provide a copy to the student's parent or guardian. It is left to the ARD committee to determine whether the student's eligibility for supplemental accelerated instruction directly goes to the student's present levels of academic achievement as required under 19 TAC §89.1055(a) and 34 Code of Federal Regulations §300.320(a)(1). The agency also disagrees with the commenter's suggestion regarding special transportation needs of students with disabilities. Subsection (c) addresses the requirement for an LEA to provide transportation for students when they are participating in supplemental accelerated instruction before or after normal school hours and at times of the year outside normal school operations.

Comment: A school administrator commented that the additional time component with remediation limitations has been difficult for parents. The administrator also shared concerns about the Paperwork Reduction Act and concerns with special education considerations.

Response: This comment relates to the underlying statute rather than the rule. As such, this comment is outside the scope of this proposed rulemaking.

Comment: A school administrator commented that they disagree with the fiscal impact of implementing the 3:1 ratio and personnel requirements.

Response: The agency disagrees. The rule does not require LEAs to incur additional costs while providing accelerated instruction under HB 4545.

Comment: The Association of Texas Professional Educators, The Commit Partnership, and Texas State Teachers Association commented that the requirements and implementation of accelerated instruction should not be required to be delivered by certified teachers.

Response: The agency disagrees. The rule does not require that a certified teacher deliver the accelerated instruction.

Comment: An administrator commented that the accountability model and proposed new §104.1001 are in direct conflict with

each other because all resources are 100% shifted to the accelerated instruction to meet the required components.

Response: The agency disagrees that new §104.1001 contradicts the accountability model and provides the following clarification. There are no regulations that require an LEA to designate the entirety of its financial and personnel resources to provide accelerated instruction to students identified in HB 4545. Additionally, the targeted supplemental instruction cannot interfere with the core content instruction received by all students.

Comment: Five individuals commented with concern about proposed new §104.1001 being in contradiction to the Paperwork Reduction Act.

Response: The agency disagrees. New §104.1001 does not require that any paperwork be submitted to a state agency as part of HB 4545. Any documentation put in place by an LEA would be to provide proof of statutory compliance.

Comment: An individual commented with a concern about the implementation of proposed new §104.1001 as it relates to individual students' achievement levels and TEKS alignment.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An administrator requested that the agency change the term "accelerated instruction" to "additional instruction."

Response: The agency disagrees with the commenter's proposed terminology change since "accelerated instruction" is the term used in statute.

Comment: Eight individuals commented with a concern about the time requirement for implementation.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An administrator requested to change the ratio and content area requirements.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An individual commented that if an LEA is not a Decision 6 recipient, it is already incurring costs. The commenter also stated that Decision 6 recipients will incur costs after the initial three years of the grant for costs such as hiring tutors or adding tutoring to a current teacher's responsibility, tutoring materials, and/or training. The commenter asked if there will be any data or reporting required to show compliance with the requirement for LEAs to tutor a student for 30 hours during the school year. Finally, the commenter asked how TEA or an LEA would receive information regarding the students being tutored and/or demonstrate compliance with the requirements of HB 4545 if neither the teachers (who are the tutors) nor their supervisory principals are required to complete any reports or paperwork.

Response: The agency provides the following clarification. Because there is autonomy in the way LEAs build their tutor programming to meet HB 4545 requirements, some LEAs may incur costs as a result of their implementation decisions. However, new §104.1001 does not regulate the implementation process of HB 4545, which provides enough leeway for LEAs to integrate accelerated learning programming at no additional cost to the LEA. Furthermore, there is no data or reporting impact given that HB 4545 compliance documentation coincides with current local data collection.

Comment: A school district administrator requested that proposed new §104.1001 be amended to allow ALCs to develop individualized plans designed for a specific student with input from the student's teacher and parents. The commenter also requested that the rule be amended to eliminate the requirement that the principal and teacher of the sending campus participate in ALC meetings, except at the request of the receiving campus, and that the transportation requirement be removed so school districts are able to make decisions locally based on student need.

Response: The agency disagrees. The provisions referenced in the comment surrounding ALCs are required by statute. The remainder of the comment about ALC participation and the transportation requirement removal request is outside the scope of the proposed rulemaking.

Comment: An individual commented that clarification is needed regarding the 30 hours for end of course examinations (EOCs). The commenter stated that with testing in June, December, and April/May, an unreasonable number of hours per course could be accumulated.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A school district administrator commented that HB 4545 has imposed undue burden on teachers and districts with highly restrictive requirements that force districts to make challenging decisions that forgo enrichment activities for all students.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An individual requested that proposed new §104.1001 be withdrawn. The commenter stated that the proposed new rule does not contain any language limiting the eight specific requirements for supplemental instruction to the receipt of funds under the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) or American Rescue Plan and, therefore, goes well beyond the statutory requirements and legislative intent. The commenter also stated that it would be preferable to adhere to the terms used in statute (accelerated instruction and supplemental instruction) rather than creating and using a third term (supplemental accelerated instruction).

Response: The agency disagrees that proposed new §104.1001 should be withdrawn. The agency also disagrees that it has conflated instruction terminology, but, for clarification purposes, the agency has amended the rule at adoption to add new subsection (a) to define the term "supplemental accelerated instruction" as instruction required under TEC, §28.0211(a-1) and, if applicable, (a-4).

Comment: Representative Ken King, one individual, one consultant for Lead4ward, LLC, and a registered lobbyist for Texas Association of School Administrators, Texas Association of School Business Officials, Texas School Alliance and Texas Association of School Boards commented with concern about funding sources and requirements once funding expires. The commenters stated that the Notice of Grant Award end date for CRRSA funding appears to be September 30, 2022, with a carryover period through September 30, 2023. The commenters requested that proposed new §104.1001 be amended to allow school districts to use their Elementary and Secondary School Emergency Relief funding under CRRSA to implement these provisions while removing the requirement once the funding has expired.

Response: The agency agrees with the need to address funding timelines and plans to propose a separate rule to address issues of funding periods and related matters of applicability regarding new §104.1001.

Comment: An individual requested that the time requirement be amended to 15 hours of accelerated instruction for those failing reading and mathematics only from Grades 3-8 and not include EOCs.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A registered lobbyist recommended that the agency withdraw proposed new §104.1001. The commenter also requested that the agency acknowledge in the fiscal impact statement that there are negative fiscal implications for school districts as many of the requirements are not funded by the state and will be funded at the district level once the federal money runs out. The commenter's concerns related to the fiscal impact include the cost of transportation for accelerated instruction that must be provided in the summer and before/after school hours outside the regular schedule as well as costs associated with recruiting tutors. The commenter requested that the agency acknowledge in the government growth impact statement that the state will need to allocate funds for the accelerated and supplemental instruction requirements in the future as the federal COVID-19 relief funds for supplemental instruction expire and state funds for the accelerated instruction requirements are no longer provided by the Student Success Initiative Rider. The commenter suggested that the agency clearly state in the Texas Administrative Code (TAC) that once a school district's COVID-19 relief funds have been expended, the requirement to provide each of the supplemental instruction requirements no longer applies (e.g., the 30 hours and 3:1 ratio) as HB 4545 specifies these provisions only apply to districts receiving the federal funding. The commenter requested that the agency clearly state in TAC that a school district that did not receive COVID-19 relief funding is not subject to the supplemental instruction requirements. The commenter suggested aligning rule language with statutory language to avoid confusion and stated that HB 4545 differentiates between the requirements for accelerated instruction and supplemental instruction, but the proposed rule implies they are the same.

Response: The agency disagrees with the commenter's request to withdraw the proposed rulemaking. The agency disagrees that the rule language should be amended, as funding and associated expirations can be found in existing statutory language in TEC, §28.0211(a-4). The agency agrees that certain student transportation is required because TEC, §28.0211(j), states that "[a] school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours." The agency disagrees that it has conflated instruction terminology, but, for clarification purposes, the agency has amended the rule at adoption to add new subsection (a) to define the term "supplemental accelerated instruction" as instruction required under TEC, §28.0211(a-1) and, if applicable, (a-4).

Comment: An individual commented that proposed new §104.1001 should be amended to allow a group ALC meeting when the proposed action is to have the child attend summer school or group tutoring.

Response: The agency disagrees. As the statute does not provide for meetings of groups of ALCs, it is inappropriate to include group meetings in new §104.1001.

Comment: Texas Classroom Teachers Association commented that the term "supplemental accelerated instruction" conflates two very distinct types of instruction that HB 4545 requires.

Response: The agency disagrees that it has conflated instruction terminology, but, for clarification purposes, the agency has amended the rule at adoption to add new subsection (a) to define the term "supplemental accelerated instruction" as instruction required under TEC, §28.0211(a-1) and, if applicable, (a-4).

Comment: An individual commented that HB 4545 has caused students to be stressed in an already stressful climate and that the bill is punishing students who were told their STAAR® test would not count last year. The commenter stated that the cost of implementing HB 4545 will put a strain on school districts and that it does nothing but punish students who are not performing well on testing through forced tutoring. The commenter suggested that a better idea would be to give the students more money for resources and teachers to help them on a regular basis.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A school district administrator requested that the agency withdraw proposed new §104.1001, remove the transportation requirement, reduce the time requirement to 20 hours, extend the ALC meeting completion window, and revise the FAQ document to allow dyslexia services to count for reading accelerated instruction minutes.

Response: The agency disagrees with the request to withdraw the proposed rulemaking. The agency disagrees that the rule language should be amended, as funding and associated expirations can be found in existing statutory language in TEC, §28.0211(a-4). The remainder of the comment falls outside the scope of the proposed rule.

Comment: Bexar County Education Coalition commented that administrative rules should offer similar options and allowable adjustments like those TEA presented in the 34-page FAQ document posted on the agency's COVID-19 website. The commenter stated that proposed new Chapter 104 should provide for an alternative assessment option similar to what is presented in the FAQ and current rules in 19 Chapter 101, Subchapter BB. Additionally, the commenter stated that the proposed new rule focuses only on the hour requirement of accelerated learning but that the rule should make clear that accelerated learning should be focused on "just in time supports" as detailed on page 5 in response to question 15 and page 21 in response to question 57 in TEA's FAQ document. Finally, the commenter stated that Chapter 104 should contain rules to ensure that parental rights are made clear as soon as a student's test scores are determined.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Several individuals commented that proposed new §104.1001 should make clear that it is not intended to restrict parental rights under TEC, §26.010, in any manner. The commenter stated that the rule should provide that any electronic waivers of the tutoring ratio offered to parents must provide an opportunity to decline the waiver and that the school cannot condition access to any educational programming on the parent granting the waiver.

Response: The agency disagrees that new §104.1001 should include a reference to TEC, §26.010, because the reference is unnecessary. Regarding the issues of tutoring ratio waivers, the agency provides the following clarification. New §104.1001 includes language specifying that a school district or an open-enrollment charter school may not remove a student from recess or from the foundation or enrichment curriculum as defined in the TEC and that supplemental accelerated instruction shall be provided as outlined in the TEC to a student individually or in a group of no more than three students unless the parent or guardian of each student in the group authorizes a larger group. For students with disabilities who have an IEP, the IEP may define the group size or the student-to-teacher ratio that must be followed.

Comment: A parent commented that students and schools were told in the 2020-2021 school year that, due to the pandemic, the STAAR® assessment would not count against them but that the test counted immensely for students. The commenter stated that many of the students involved in tutoring are students who already struggle to keep up with regular classes, special education students, students with dyslexia, and/or students who are emerging bilinguals. The commenter suggested that there should be an alternate method to help students catch up that does not involve overloading students to the point of exhaustion. The commenter stated that the number of students in tutoring groups is too high because of the 3:1 waiver and that there is a lack of staff and resources on campuses to fulfill the 3:1 ratio that was originally intended.

Response: The agency provides the following clarification. New §104.1001 indicates that it is the responsibility of the ARD committee to determine the manner in which supplemental instruction is to be provided to students served by special education. Additionally, the rule allows for the assignment of a master teacher as an alternative to the 30 hours per subject requirement. The remaining comment is outside the scope of the proposed rulemaking. Section 104.1001(b)(3) requires that, if supplemental accelerated instruction is to be provided to a student served by special education, the supplemental accelerated instruction must meet the requirements outlined in subsection (b) unless the ARD committee specifically determines that some or all of the requirements for supplemental accelerated instruction would deny the student access to a free appropriate public education.

Comment: Lead4ward requested that the agency withdraw proposed new §104.1001. The commenter requested that, if the rule is adopted, it be revised to consistently track the terms used in the statute (accelerated instruction and supplemental instruction) rather than creating and using a new term (supplemental accelerated instruction) that is not defined in statute.

Response: The agency disagrees that it has conflated instruction terminology, but, for clarification purposes, the agency has amended the rule at adoption to add new subsection (a) to define the term "supplemental accelerated instruction" as instruction required under TEC, §28.0211(a-1) and, if applicable, (a-4).

Comment: Six individuals requested that proposed new §104.1001 be amended to allow students in special education to opt out or reduce the number of accelerated instruction hours through an ARD committee decision.

Response: This comment is outside the scope of the proposed rulemaking, but the agency refers the commenters to new §104.1001(b)(3).

Comment: Six individuals and a school district administrator expressed concern with having principals and teachers from sending and receiving campuses attend committee meetings.

Response: The agency disagrees. The language in new §104.1001 provides broad flexibility by allowing for a designee for the sending and receiving principal and a designee for the sending and receiving content teacher to be included on the committee.

Comment: Six individuals commented that the required ratio of 3:1 is not feasible.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Commit Partnership requested that language be added to clarify that individuals providing supplemental accelerated instruction do not need to be classroom teachers.

Response: The agency disagrees with the comment. There is not a provision in proposed §104.1001 that indicates tutors have to be certified teachers.

Comment: A teacher group representing Texas middle school reading and language arts teachers commented that the way school districts are implementing HB 4545 is grossly varied and disappointingly ineffective. The commenter stated that by using the "more than 3 students per tutor" waiver, multiple tutoring classes end up comprised of over 25 special education students in one group with a never-ending variety of needs. The commenter further stated that tutoring classes are much too large to be effective because there is no way to focus on individual deficits in large groups and teachers are incredibly overwhelmed with the extra preparation and teaching time.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: District Charter Alliance requested the addition of the phrase "operating partner" or similar language to proposed new §104.1001.

Response: The agency disagrees and has determined that the addition of the phrase "operating partner" or similar language is not necessary.

Comment: A parent requested that the requirement be removed as "mandatory" for students who fail or do not take STAAR®.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A parent commented that the waivers must be clearly explained in writing. The commenter stated that students with an IEP or a Section 504 plan should be allowed or mandated to have a meeting to determine whether accelerated instruction is approved or not needed due to proven progress. The commenter stated that parents or guardians should be part of this committee. The commenter also recommended removing STAAR® interim and replacing it with Measures of Academic Progress (MAP®) or Iowa Tests of Basic Skills (ITBS) or allowing proven progress from students' IEP progress reports and grades to be used instead.

Response: Regarding the issues of tutoring ratio waivers, the agency provides the following clarification. New §104.1001 includes language specifying that a school district or an open-enrollment charter school may not remove a student from recess or from the foundation or enrichment curriculum as defined in the TEC and that supplemental accelerated instruction shall be pro-

vided as outlined in the TEC to a student individually or in a group of no more than three students unless the parent or guardian of each student in the group authorizes a larger group. The remainder of the comment is outside the scope of the proposed rulemaking.

Comment: A parent commented that parents and children are being threatened by eliminating electives, cutting recess, or adding more hours to the day for accelerated instruction.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A parent commented that even though response to intervention (RtI) has been declined, it is used as a tool claiming there is special permission from TEA to require accelerated instruction.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: Several stakeholders commented that proposed new §104.1001 must be clear that a school cannot condition participation in any educational activities upon a change to the required tutoring ratio of students to instructors.

Response: The agency agrees. New §104.1001 includes language specifying that a school district or an open-enrollment charter school may not remove a student from recess or from the foundation or enrichment curriculum as defined in the TEC and that supplemental accelerated instruction shall be provided as outlined in the TEC to a student individually or in a group of no more than three students unless the parent or guardian of each student in the group authorizes a larger group.

Comment: A parent recommended including in the FAQ section that schools are required to provide transportation to the students if they schedule accelerated instruction outside of regular school hours.

Response: The agency agrees. New §104.1001 states that each school district and open-enrollment charter shall be responsible for providing transportation to students required to attend if programs are outside of regular school hours.

Comment: An individual requested to increase the 3:1 ratio to 10:1.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: A parent commented with concerns related to parental rights. The commenter stated that numerous school districts have interpreted HB 4545 to mean that an ARD committee has no authority to modify the requirements of HB 4545 in order to secure the rights of special education students. The commenter recommended that the rule be expanded with respect to parental waiver of the 3:1 tutoring ratio to require that any electronic form utilized to obtain a parental waiver clearly provide the opportunity for the parent to decline the waiver and that access to any educational programming may not be conditioned upon the execution of the waiver.

Response: The agency agrees that the ARD committee may or may not determine to implement accelerated instruction into a student with disabilities' instructional plan as referenced in new §104.1001(b)(3) and (f)(2). The agency agrees that waivers are optional, cannot be forced, and must be authorized by each parent of the accelerated learning group as referenced in §104.1001(d).

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §28.0211, as amended by House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, which provides for (1) accelerated instruction for students who do not perform satisfactorily on assessments administered under TEC, §39.023(a), in Grades 3-8; (2) accelerated learning committees for students in Grades 3, 5, or 8 who do not perform satisfactorily on reading and mathematics assessments administered under TEC, §39.023; and (3) other related requirements. TEC, §28.0211(k), allows, but does not require, the commissioner to adopt rules as necessary to implement the section; and TEC, §28.0217, as amended by HB 4545, 87th Texas Legislature, Regular Session, 2021, which provides for accelerated instruction, which must comply with the requirements for accelerated instruction under TEC, §28.0211, for students in high school who do perform satisfactorily on assessments administered under TEC, §39.023(c), as well as related requirements.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §28.0211 and §28.0217, as amended by House Bill 4545, 87th Texas Legislature, Regular Session, 2021.

§104.1001. *Accelerated Instruction, Modified Teacher Assignment, and Accelerated Learning Committee.*

(a) Definition of supplemental accelerated instruction. For purposes of this chapter, "supplemental accelerated instruction" means instruction required under Texas Education Code (TEC), §28.0211(a-1) and, if applicable, (a-4).

(b) Requirements for supplemental accelerated instruction.

(1) Each time a student fails to perform satisfactorily on an assessment instrument administered under TEC, §39.023(a), in Grades 3-8, the school district or open-enrollment charter school the student attends shall:

(A) provide to the student supplemental accelerated instruction in the applicable subject area during the subsequent summer or school year; or

(B) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under TEC, §21.3521, for the subsequent school year in the applicable subject area.

(2) Each time a student fails to perform satisfactorily as determined by the commissioner under TEC, §39.0241(a), on an end-of-course assessment instrument, a school district or open-enrollment charter school shall:

(A) provide to the student supplemental accelerated instruction under TEC, §28.0217, in the subject assessed by the assessment instrument; or

(B) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under TEC, §21.3521, for the subsequent school year in the applicable subject area.

(3) For a student served by special education who does not perform satisfactorily on an assessment instrument administered under TEC, §39.023(a), the student's admission, review, and dismissal (ARD) committee must determine the manner in which the student will engage in supplemental accelerated instruction. ARD committees must consider the individual needs of a student with a disability when determining the manner in which supplemental accelerated instruction is to be provided to the student. If supplemental accelerated instruction is

to be provided to the student, the supplemental accelerated instruction must meet the requirements outlined in this subsection unless the ARD committee specifically determines that some or all of the requirements for supplemental accelerated instruction would deny the student access to a free appropriate public education (FAPE).

(4) The superintendent of each school district and chief administrative officer of each open-enrollment charter school shall establish procedures to ensure that each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate supplemental accelerated instruction as warranted on an individual student basis.

(c) Participation in supplemental accelerated instruction. Supplemental accelerated instruction may require a student to participate before or after normal school hours and may include participation at times of the year outside normal school operations. Each school district and open-enrollment charter school shall be responsible for providing transportation to students required to attend supplemental accelerated instruction programs if the programs occur outside of regular school hours.

(1) In providing supplemental accelerated instruction, a school district or an open-enrollment charter school may not remove a student from recess or from the foundation or enrichment curriculum as defined in TEC, §28.002, except under circumstances for which a student enrolled in the same grade level who is not receiving supplemental accelerated instruction would be removed. The foundation curriculum includes English language arts, mathematics, science, and social studies. Courses in the enrichment curriculum include languages other than English; health, with emphasis on physical health, proper nutrition, and exercise; mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision making; suicide prevention; physical education; fine arts; career and technical education; technology applications; religious literature; and personal financial literacy.

(2) In the event that a school week is three or less instructional days, the school is exempt from meeting the requirement of meeting once per week for supplemental accelerated instruction.

(d) Content and delivery of supplemental accelerated instruction. Supplemental accelerated instruction shall be based on, but not limited to, targeted instruction in the essential knowledge and skills for the applicable grade levels and subject areas and be provided by a person with training in the applicable instructional materials for the supplemental accelerated instruction and under the oversight of the school district or open-enrollment charter school. Supplemental accelerated instruction shall be provided as outlined in TEC, §28.0211(a-4)(2)-(5) and (8), to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group.

(e) Accelerated learning committee. A school district or an open-enrollment charter school shall establish an accelerated learning committee described by TEC, §28.0211(c), for each student who does not perform satisfactorily on a mathematics or reading assessment instrument under TEC, §39.023, in Grade 3, 5, or 8.

(1) The accelerated learning committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. If a student is changing campuses, the committee must include the receiving principal or designee, the sending principal or designee, the receiving content teacher or designee, and the sending content teacher or designee.

(2) The school district or open-enrollment charter school shall notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee.

(3) The accelerated learning committee shall, not later than the start of the subsequent school year, develop an educational plan for the student that provides the necessary supplemental accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. The provisions of TEC, §28.0211(f-1)-(f-5), (h), and (j), must be satisfied, where applicable, in connection with the development and implementation of the educational plan.

(f) Requirements for an ARD committee serving as an accelerated learning committee.

(1) The ARD committee must serve as the accelerated learning committee for a student served by special education who does not perform satisfactorily on an assessment instrument described by subsection (e) of this section.

(2) The ARD committee must serve as the accelerated learning committee for students who meet the criteria for participation in alternative assessment instruments under TEC, §39.023(b), who do not perform satisfactorily on a mathematics or reading assessment instrument in Grade 3, 5, or 8. The ARD committee must determine the manner in which the student will participate in supplemental accelerated instruction; however, the requirements for supplemental accelerated instruction described by subsection (b) of this section do not apply.

(3) In serving as the accelerated learning committee for a student served by special education, the ARD committee must meet and develop a plan in accordance with TEC, §28.0211(f), to determine the manner in which the student will participate in supplemental accelerated instruction, and this meeting must include the required members of a properly constituted ARD committee as described in §89.1050 of this title (relating to The Admission, Review, and Dismissal Committee).

(4) When the ARD committee for a student served by special education serves as the accelerated learning committee, efforts must be taken to ensure parental participation as specified within the requirements of §89.1050(d) of this title and 34 Code of Federal Regulations §300.322.

(5) The ARD committee, serving as the accelerated learning committee, must document decisions regarding supplemental accelerated instruction in writing and a copy must be provided to the student's parent or guardian in accordance with TEC, §28.0211(f-1). This documentation may either be included in ARD deliberations or as a supplemental attachment to the student's individualized education program.

(6) A parent or guardian of a student served by special education may use a dispute resolution mechanism specified in §89.1150 of this title (relating to General Provisions) to resolve any dispute between the parent and a public education agency relating to the identification, evaluation, or educational placement of or the provision of a FAPE to a student with a disability. If a parent or guardian of a student served by special education does not agree with the decision of the ARD committee serving as the accelerated learning committee regarding supplemental accelerated instruction, the parent or guardian may follow the school district grievance policy provided for under TEC, §28.0211(f-3).

(g) Request for teacher assignment. In accordance with TEC, §28.0211(a-5), the parent or guardian of a student who fails to perform

satisfactorily on a mathematics or reading assessment in Grade 3, 5, or 8 may follow established school district or open-enrollment charter school processes to request that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201976

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: June 9, 2022

Proposal publication date: January 21, 2022

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

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TITLE 22. EXAMINING BOARDS

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER C. DISCIPLINARY GUIDELINES

22 TAC §281.66

The Texas State Board of Pharmacy adopts amendments to §281.66, concerning Application for Reissuance or Removal of Restrictions of a License or Registration. These amendments are adopted without changes to the proposed text as published in the March 18, 2022, issue of the *Texas Register* (47 TexReg 1413). The rule will not be republished.

The amendments specify the number of continuing education and internship hours required for reinstatement of a license to practice pharmacy.

No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by this adoption: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201898

Timothy L. Tucker, Pharm.D.
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Texas State Board of Pharmacy
Effective date: June 6, 2022
Proposal publication date: March 18, 2022
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CHAPTER 291. PHARMACIES

SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

22 TAC §291.121

The Texas State Board of Pharmacy adopts amendments to §291.121, concerning Remote Pharmacy Services. These amendments are adopted without changes to the proposed text as published in the March 18, 2022, issue of the *Texas Register* (47 TexReg 1415). The rule will not be republished.

The amendments remove a prohibition against duplicating drugs stored in emergency medication kits.

No comments were received.

The amendments are adopted under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by this adoption: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

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

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Effective date: June 6, 2022
Proposal publication date: March 18, 2022
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PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 507. EMPLOYEES OF THE BOARD

22 TAC §507.9

The Texas State Board of Public Accountancy adopts new §507.9, concerning Sick Leave Pool and Family Leave Pool, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1659). The rule will not be republished.

Section 661 of the Texas Government Code requires state agencies to adopt rules and prescribe procedures to implement the operation of the family leave and sick leave pools.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201938
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: June 8, 2022
Proposal publication date: April 1, 2022
For further information, please call: (512) 305-7842



CHAPTER 511. ELIGIBILITY

SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

22 TAC §511.53

The Texas State Board of Public Accountancy adopts an amendment to §511.53, concerning Evaluation of International Education Documents, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1660). The rule will not be republished.

The Uniform CPA examination is being restructured beginning January 1, 2024. Board Rule §511.60 is being referenced in this rule to assist applicants to take the Uniform CPA examination in understanding the eligibility requirements to take the Uniform CPA examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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Texas State Board of Public Accountancy
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22 TAC §511.54

The Texas State Board of Public Accountancy adopts an amendment to §511.54, concerning Recognized Texas Community Colleges, with changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1661). The rule will be republished.

The Uniform CPA examination is being restructured beginning January 1, 2024. Board Rule §511.60 is being referenced in this rule to assist applicants to take the Uniform CPA examination in understanding the eligibility requirements to take the Uniform CPA examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

§511.54. *Recognized Texas Community Colleges.*

(a) An applicant who has completed a baccalaureate or higher degree from a board recognized institution of higher education based on the requirements of §511.52 of this chapter (relating to Recognized Institutions of Higher Education), may enter into a course of study at a board recognized Texas community college to complete the educational requirements of §§511.57, 511.58, and 511.60 of this chapter (relating to Qualified Accounting Courses, Definitions of Related Business Subjects and Ethics Courses, and Qualified Accounting Courses Prior to January 1, 2024).

(b) The board recognizes and accepts Texas community colleges that meet board standards for a comprehensive academic program based on the educational requirements of §§511.57, 511.58, and 511.60 of this chapter.

(c) Effective August 1, 2015, the standards include at a minimum all, but are not limited to, the following:

(1) The Texas community college must be accredited by SACS.

(2) Academic accounting and business courses recognized as meeting §§511.57, 511.58, and 511.60 of this chapter are deemed by the board as equivalent to upper level coursework at an institution of higher education and must contain a rigorous curriculum that is similar to courses offered in a baccalaureate degree program at a university. Accounting, business, and ethics courses must be developed by a group of full time accounting faculty members and approved by the board prior to offering to students. Modifications to an approved course must be reconsidered by the board prior to offering to students.

(3) Academic courses meeting §§511.57, 511.58, and 511.60 of this chapter must be taken after completing a baccalaureate degree.

(4) The Texas community college must offer:

(A) 30 semester hours of academic accounting courses meeting §511.57 or §511.60 of this chapter;

(B) 24 semester hours of academic business courses meeting §511.58 of this chapter; and

(C) a board-approved three semester hour ethics course meeting §511.58 of this chapter.

(5) The Texas community college designates an accounting faculty member(s) who is responsible for:

(A) managing the comprehensive academic program at all campuses;

(B) selecting and training qualified faculty members to teach the program courses and regularly evaluating their effectiveness in the classroom;

(C) establishing and maintaining a rigorous program curriculum;

(D) establishing and maintaining a process for advising and guiding students through the program; and

(E) providing annual updates to the board on the status of the academic program.

(6) Faculty members at a community college recognized and accepted by the board must have the following credentials to teach academic courses meeting §§511.57, 511.58, and 511.60 of this chapter:

(A) Doctorate or master's degree in the teaching discipline; or

(B) Master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).

(7) At least three-fourths of the faculty members who are responsible to teach academic courses meeting §511.57 or §511.60 of this chapter must hold a current CPA license.

(8) Faculty members will comply with the established educational definitions in §511.51 of this chapter (relating to Educational Definitions).

(9) The Texas community college will provide ongoing professional development for its faculty as teachers, scholars, and CPA practitioners.

(10) The Texas community college will make available to students a resource library containing current online authoritative literature to support the academic courses meeting §§511.57, 511.58, and 511.60 of this chapter, and will incorporate the online authoritative literature in accounting courses.

(d) A community college recognized and accepted by the board under this provision must be reconsidered by the board on the fifth-year anniversary of the approval. Information brought to the attention of the board by a student or faculty member of the Texas community college that indicates non-compliance with the standards may cause the board to accelerate reconsideration.

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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Texas State Board of Public Accountancy
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For further information, please call: (512) 305-7842



22 TAC §511.56

The Texas State Board of Public Accountancy adopts an amendment to §511.56, concerning Educational Qualifications under the Act, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1663). The rule will not be republished.

The Uniform CPA examination is being restructured beginning January 1, 2024. Board Rule §511.60 is being referenced in this rule to assist applicants to take the Uniform CPA examination in understanding the eligibility requirements to take the Uniform CPA examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
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For further information, please call: (512) 305-7842



CHAPTER 520. PROVISIONS FOR THE FIFTH-YEAR ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

22 TAC §520.3

The Texas State Board of Public Accountancy adopts an amendment to §520.3, concerning Institutions, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1664). The rule will not be republished.

The Uniform CPA examination is being restructured beginning January 1, 2024. The rule is being revised to help identify the academic course work necessary to be eligible to take the Uniform CPA Examination prior to January 1, 2024 and subsequent to January 1, 2024. Rule §511.60 is being referenced in this rule to assist in understanding the eligibility requirements to take the Uniform CPA examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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Texas State Board of Public Accountancy
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CHAPTER 527. PEER REVIEW

22 TAC §527.3

The Texas State Board of Public Accountancy adopts an amendment to §527.3, concerning Standards for Peer Reviews and Sponsoring Organizations, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1665). The rule will not be republished.

The amendment is needed to address the role of the PCAOB (Public Company Accounting Oversight Board) as it relates to the Peer Review Program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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Texas State Board of Public Accountancy
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For further information, please call: (512) 305-7842



22 TAC §527.4

The Texas State Board of Public Accountancy adopts an amendment to §527.4, concerning Enrollment and Participation, without changes to the proposed text as published in the April 1, 2022,

issue of the *Texas Register* (47 TexReg 1666). The rule will not be republished.

The amendment establishes the relationship between the Board and CPE sponsors as an authorization and not contractual. The CPE sponsors are authorized by the Board to offer continuing professional education.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §527.7

The Texas State Board of Public Accountancy adopts an amendment to §527.7, concerning Peer Review Oversight Board, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1668). The rule will not be republished.

The amendment eliminates the reference to the Public Company Accounting Oversight Board (PCAOB) program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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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Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §527.9

The Texas State Board of Public Accountancy adopts an amendment to §527.9, concerning Procedures for a Sponsoring Organization, without changes to the proposed text as published in the April 1, 2022, issue of the *Texas Register* (47 TexReg 1669). The rule will not be republished.

The amendment eliminates a reference to the Public Company Accounting Oversight Board (PCAOB) program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

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

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201946

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: June 8, 2022

Proposal publication date: April 1, 2022

For further information, please call: (512) 305-7842



PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

22 TAC §851.158

The Texas Board of Professional Geoscientists (TBPG) adopts an amendment to 22 TAC §851.158 regarding TBPG complaint procedures. This amendment is adopted without changes to the proposed text as published in the March 18, 2022, issue of the *Texas Register* (47 TexReg 1426) and will not be republished.

The adopted amendment streamlines TBPG's complaint procedures by decreasing from 30 days to 20 days the amount of time within which a respondent must respond to a notice of alleged violation. The shortened timeframe allows for more timely resolution of complaints. This amendment also makes the agency's practice consistent with other regulatory and occupational licensing agencies in Texas.

No public comments were received regarding the proposal.

This amendment is authorized by the Texas Geoscience Practice Act, Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce all rules and regulations consistent

with the Act as necessary for the performance of its duties, and the regulation of the practice of geoscience in this state; and §1002.204, which requires the agency to maintain a system to promptly and efficiently act on complaints filed with the board.

This section affects Texas Occupations Code §§1002.151 and 1002.204.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201985

Rene Truan

Executive Director

Texas Board of Professional Geoscientists

Effective date: June 12, 2022

Proposal publication date: March 18, 2022

For further information, please call: (512) 936-4428



TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.17

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts the amendments to 25 Texas Administrative Code §703.17, without changes to the proposed text as published in the March 4, 2022, issue of the *Texas Register* (47 TexReg 1058); therefore, the rule will not be republished. The amendments relate to revenue sharing terms and the Institute's option to take equity ownership in a grant recipient.

Reasoned Justification

If CPRIT takes equity in a grant recipient, the amendments to §703.17 require CPRIT to specify in the award contract any changes from standard reporting requirements and associated consequences for failing to timely report.

Summary of Public Comments and Staff Recommendation

CPRIT received no public comments regarding the proposed amendments to §703.17; CPRIT staff recommends moving forward with adoption of the amendments.

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, § 102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201968

Heidi McConnell

Chief Operating Officer

Cancer Prevention and Research Institute of Texas

Effective date: June 9, 2022

Proposal publication date: March 4, 2022

For further information, please call: (512) 305-8487



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 331. UNDERGROUND INJECTION CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

30 TAC §331.11

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §331.11.

Amended §331.11 is adopted *without changes* to the proposed text as published in the December 31, 2021, issue of the *Texas Register* (46 TexReg 9189), and, therefore, will not be republished.

Background and Summary of the Factual Basis for the Adopted Rule

This rulemaking adoption implements House Bill (HB) 1284, 87th Texas Legislature, Regular Session (RS), 2021, addressing agency jurisdiction over regulation of injection and geologic storage of anthropogenic carbon dioxide (CO₂) in Texas.

Class VI underground injection control (UIC) wells are authorized under the federal Safe Drinking Water Act and are used to inject anthropogenic CO₂ into the subsurface for geologic sequestration and storage. Owners and operators of these wells must first obtain a permit from the United States Environmental Protection Agency (EPA) in order to inject and store anthropogenic CO₂, unless EPA has delegated permitting jurisdiction, known as "primacy," to a state to issue such permits. Texas has primacy over the permitting of all other classes of UIC wells, but not over Class VI wells. Prior to HB 1284, Chapter 27 of the Texas Water Code (TWC) split jurisdiction over Class VI wells between the Railroad Commission of Texas (RRC) and the TCEQ, depending on the type of project producing the anthropogenic CO₂ and the zone into which the anthropogenic CO₂ will be injected. In HB 1284, the legislature consolidated the jurisdiction over onshore and offshore Class VI UIC wells solely to the RRC and directed the RRC to apply for and obtain primacy of this permitting program from the EPA.

Although permitting of Class VI injection wells under HB 1284 is delegated solely to the RRC, the TCEQ will be required to issue a letter of determination to an applicant who is pursuing a Class VI permit from the RRC stating that Class VI injection operations will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by the TCEQ.

HB 1284 is effective immediately and was signed by Governor Abbott on June 9, 2021.

Section Discussion

HB 1284 amends Chapter 27 of TWC; Chapter 382 of the Texas Health and Safety Code (THSC); Chapter 121 of the Natural Resources Code (NRC); and Chapter 202 of the Tax Code to give sole jurisdiction of the Class VI injection activities to the RRC.

The commission adopts amendments to 30 Texas Administrative Code (TAC) §331.11 by removing subsection (d), which states "The commission has jurisdiction over the injection of carbon dioxide produced by a clean coal project into a zone that is below the base of usable quality water and that is not productive of oil, gas, or geothermal resources."

Final Regulatory Impact Determination

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the action is not subject to TGC, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined by that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks 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 the state or a sector of the state. The adopted rule implements legislation (HB 1284, 87th Texas Legislature, RS, 2021) which consolidates the jurisdiction over onshore and offshore Class VI UIC wells solely to the RRC and directs the RRC to apply for and obtain primacy of this permitting program from the EPA. The adopted rule implements this change in jurisdiction and is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Existing requirements for the management of underground injection wells in 30 TAC Chapter 331 are not changed by this adopted rulemaking.

As defined in TGC, §2001.0225(a) only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The adopted rule does not exceed an express requirement of state law or a requirement of a delegation agreement as there are no express requirements for underground injection control wells. These rules were not developed solely under the general powers of the agency as they are consistent with HB 1284, Chapter 27 of the TWC, Chapter 382 of THSC, Chapter 121 of the NRC, and Chapter 202 of the Tax Code. Therefore, this adopted rulemaking is not subject to the regulatory analysis provision of TGC, §2001.0225(b).

The commission invited public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Comments were not received on the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated this rulemaking action and performed a preliminary assessment of whether TGC, Chapter 2007, is applicable. The adopted rule implements legislative requirements

in HB 1284, which consolidates the jurisdiction over onshore and offshore Class VI UIC wells solely to the RRC and directs the RRC to apply for and obtain primacy of this permitting program from the EPA.

The adopted rule will be neither a statutory nor a constitutional taking of private real property. The adopted rule does not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2207.002(5). The adopted rule does not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this adopted rulemaking action will not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rule and found it is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will it affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the adopted rule is not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the CMP during the public comment period. Comments were not received regarding the CMP.

Public Comment

The commission held a public hearing on January 25, 2022. The comment period closed on February 1, 2022. The commission received comments from Carbon Neutral Coalition, Carrizo Comecrudo Tribe of Texas, Texas 2036, and an individual.

Carbon Neutral Coalition and Texas 2036 were in support of the rulemaking. Carrizo Comecrudo Tribe of Texas and the individual were opposed to the rulemaking. Changes to the rulemaking were not suggested by any of the commenters.

Response to Comments

Comment

Carbon Neutral Coalition and Texas 2036 commented in support of the rulemaking.

Response

The commission acknowledges these comments.

Comment

Carrizo Comecrudo Tribe of Texas and an individual commented that they oppose the action taken by the legislature, passing HB 1284 and amending Chapter 382 of THSC, Chapter 121 of the Natural Resources Code, Chapter 202 of the Tax Code, and Chapter 27 of TWC, which grant jurisdiction over Class VI UIC activities to the RRC and instruct the RRC to seek primacy over Texas' Class VI UIC Program. The commenters therefore oppose the rulemaking.

Response

This rulemaking implements the statutory provisions enacted by the legislature by revising an existing rule to be consistent with the jurisdiction granted by the legislature. The actions of the legislature are outside of TCEQ's jurisdiction and the scope of this rulemaking.

Statutory Authority

The amended rule is adopted under TWC §5.013, which establishes the general jurisdiction of the commission; TWC §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; and TWC §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells.

The rulemaking implements House Bill 1284, 87th Texas Legislature, RS, 2021; TWC Chapter 27; Texas Health and Safety Code Chapter 382; Natural Resources Code §121.003; and Tax Code §202.0545, which consolidate the jurisdiction over onshore and offshore Class VI UIC wells solely to the Railroad Commission of Texas (RRC) and direct the RRC to apply for and obtain primacy of this permitting program from the Environmental Protection Agency.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201970

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: June 9, 2022

Proposal publication date: December 31, 2021

For further information, please call: (512) 239-0600



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION

SUBCHAPTER A. PRACTICE AND PROCEDURES

DIVISION 1. PRACTICE AND PROCEDURES

34 TAC §1.1

The Comptroller of Public Accounts adopts amendments to §1.1, concerning scope and construction of rules, without changes to the proposed text as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1211). The rule will not be republished. The amendments implement Senate Bill 248, 87th Legislature, 2021. Senate Bill 248 repealed Tax Code, §154.1142 and §155.0592, and enacted new Health and Safety Code, §161.0901 (Disciplinary Action Against Cigarette, E-cigarette, and Tobacco Product Retailers).

No comments were received 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 (State Taxation).

This section implements Tax Code, §111.00455 (Contested Cases Conducted by State Office of Administrative Hearings) and Health and Safety Code, §161.0901 (Disciplinary Action Against Cigarette, E-cigarette, and Tobacco Product Retailers).

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201947

Jennifer Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

Effective date: June 8, 2022

Proposal publication date: March 11, 2022

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



34 TAC §1.5

The Comptroller of Public Accounts adopts amendments to §1.5, concerning filing documents with SOAH or the Office of Special Counsel for Tax Hearings, with a change to the proposed text as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1212). The change corrects the new nine-digit zip code. The rule will be republished. The amendments reorganize the contact information for the Office of Special Counsel for Tax Hearings. In addition, the amendments correct the mailing address for the Office of Special Counsel, revising it from Post Office Box 13025 to Post Office Box 13528.

No comments were received 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 (State Taxation).

This section implements Tax Code, §111.00455 (Contested Cases Conducted by State Office of Administrative Hearings).

§1.5. Filing Documents with SOAH or the Office of Special Counsel for Tax Hearings.

(a) Filing requirement with SOAH. A party shall file documents that are required to be filed with SOAH in accordance with SOAH Rules of Procedure. The date of filing is determined by SOAH Rules of Procedure. The parties should refer to SOAH Rules of Procedure, 1 TAC §§155.51 (Jurisdiction); 155.53 (Request to Docket Case); and 155.101 (Filing Documents).

(b) Filing requirement with the Office of Special Counsel for Tax Hearings. Contested case documents required to be filed with the Office of Special Counsel for Tax Hearings are:

(1) a motion to dismiss under Government Code, §2001.056 (Informal Disposition of Contested Case);

(2) a motion for rehearing and related motions under Government Code, §§2001.141 - 2001.147 (Contested Cases: Final Decisions and Orders; Motions for Rehearing);

(3) a reply to a motion filed with the Office of Special Counsel for Tax Hearings; and

(4) a brief or reply brief under §1.34 of this title (relating to Comptroller's Decisions and Orders).

(c) Contact information for the Office of Special Counsel for Tax Hearings. Contested case documents required to be filed with the Office of Special Counsel for Tax Hearings may be filed by email to specialcounsel filings@cpa.texas.gov; by fax to (512) 936-6190; by mail addressed to Office of Special Counsel for Tax Hearings, P.O. Box 13528, Austin, Texas 78711-3528; or by hand-delivery addressed to Office of Special Counsel for Tax Hearings, 111 E. 17th Street, Austin, Texas 78774.

(d) Date of filing with the Office of Special Counsel for Tax Hearings.

(1) The filing date of a document filed by mail is determined by the date-stamp affixed by the comptroller's mail room.

(2) The filing date of a document filed by hand-delivery is determined by the date recorded by staff at the comptroller's security desk at 111 E. 17th Street, Austin, Texas 78774.

(3) The filing date of a document filed electronically is determined by the date stamp recorded on the electronic transmission received by the comptroller. The date will be based on the 24-hour period from 12:00 a.m. (midnight) through 11:59 p.m. The filing date of an electronic document received on a date that the comptroller's office is closed will be the next date that the comptroller's office is open.

(4) Non-conforming documents. The Office of Special Counsel for Tax Hearings may notify a filing party about a filing error when a filed document fails to conform to this title. To preserve the filing date when a filed document fails to include a certificate of service required by §1.6 of this title (relating to Service of Documents on Parties), the Office of Special Counsel for Tax Hearings may identify the error and request the filing party to resubmit the document in a conforming format by a deadline.

(e) Upon a taxpayer's request, the Office of Special Counsel for Tax Hearings will provide documentation demonstrating the actual date a document is filed with the Office of Special Counsel for Tax Hearings.

(f) If the Office of Special Counsel for Tax Hearings provides no document to demonstrate the actual date of receipt of a document properly filed in accordance with this section, then other relevant and reliable documents are acceptable proof of date of receipt. A certificate of service under §1.6 of this title is not acceptable proof that a document was filed or the date it was received in accordance with this section.

(g) Settlement documents. The parties should refer to §1.31 of this title (relating to Resolution Agreements) and §1.32 of this title (relating to Dismissal of Case), for guidance regarding the process for resolving a contested case by agreement and, if applicable, guidance on when to file a motion to dismiss after a resolution agreement.

(h) Service required. On the same date that a document is filed, it must also be served as described in §1.6 of this title.

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

Filed with the Office of the Secretary of State on May 19, 2022.
TRD-202201948

Jennifer Burleson
Director, Tax Policy Division
Comptroller of Public Accounts
Effective date: June 8, 2022
Proposal publication date: March 11, 2022
For further information, please call: (512) 475-2220



34 TAC §1.10

The Comptroller of Public Accounts adopts amendments to §1.10, concerning requesting a hearing, without changes to the proposed text as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1213). The rule will not be republished. The amendments implement Senate Bill 296, 87th Legislature, 2021, and add a statutory citation.

The comptroller amends subsection (a)(4) to implement Senate Bill 296, which amended Tax Code, §151.054(e) (Gross Receipts Presumed Subject to Tax). As amended, Tax Code, §151.054(e) gives taxpayers 90 days, rather than 60 days, to provide resale or exemption certificates to the comptroller after the comptroller makes a written request. The statutory amendments also provide that the comptroller may allow taxpayers to provide such certificates by a later agreed-upon date. The amendments to subsection (a)(4) adopt these statutory changes.

The comptroller also amends subsection (a)(4) to add a reference to Tax Code, §151.104 (Sale for Storage, Use, or Consumption Presumed).

In addition, the comptroller amends subsection (d) to replace the reference to "Chief Counsel" with the title "General Counsel."

No comments were received 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 (State Taxation).

This section implements Tax Code, §151.054 (Gross Receipts Presumed Subject to Tax) and §151.104 (Sale for Storage, Use, or Consumption Presumed).

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201949
Jennifer Burleson
Director, Tax Policy Division
Comptroller of Public Accounts
Effective date: June 8, 2022
Proposal publication date: March 11, 2022
For further information, please call: (512) 475-2220



34 TAC §1.11

The Comptroller of Public Accounts adopts amendments to §1.11, concerning statement of grounds; preliminary conference, without changes to the proposed text as published in the

March 11, 2022, issue of the *Texas Register* (47 TexReg 1214). The rule will not be republished. The amendments implement Senate Bill 296, 87th Legislature, 2021, and add a statutory citation.

The comptroller revises subsection (b) to waive the signature requirement for taxpayers who file a Statement of Grounds by e-mail, provided that the Statement of Grounds identifies the individual who is the taxpayer's designated representative.

In addition, the comptroller amends subsection (f) to implement Senate Bill 296, which amended Tax Code, §151.054(e) (Gross Receipts Presumed Subject to Tax). As amended, Tax Code, §151.054(e) gives taxpayers 90 days, rather than 60 days, to provide resale or exemption certificates to the comptroller after the comptroller makes a written request. The statutory amendments also provide that the comptroller may allow taxpayers to provide such certificates by a later agreed-upon date. The amendments to subsection (f) adopt these statutory changes.

The comptroller also amends subsection (f) to add a reference to Tax Code, §151.104 (Sale for Storage, Use, or Consumption Presumed).

No comments were received 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 (State Taxation).

This section implements Tax Code, §111.00455 (Contested Cases Conducted by State Office of Administrative Hearings), §151.054 (Gross Receipts Presumed Subject to Tax) and §151.104 (Sale for Storage, Use, or Consumption Presumed).

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201950

Jennifer Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

Effective date: June 8, 2022

Proposal publication date: March 11, 2022

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



34 TAC §1.13

The Comptroller of Public Accounts adopts amendments to §1.13, concerning taxpayer's acceptance or rejection of position letter, and reply to position letter, without changes to the proposed text as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1215). The rule will not be republished.

The comptroller amends subsection (b)(1) to replace the reference to "Chief Counsel" with the title "General Counsel."

No comments were received 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 (State Taxation).

This section Implements Tax Code, §111.00455 (Contested Cases Conducted by State Office of Administrative Hearings).

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201951

Jennifer Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

Effective date: June 8, 2022

Proposal publication date: March 11, 2022

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



34 TAC §1.21

The Comptroller of Public Accounts adopts amendments to §1.21, concerning notice of setting and permit holder reply for certain cigarette, cigar, and tobacco tax cases, without changes to the proposed text as published in the March 11, 2022, issue of the *Texas Register* (47 TexReg 1216). The rule will not be republished. The amendments implement Senate Bill 248, 87th Legislature, 2021. Senate Bill 248 repealed Tax Code, §154.1142 (Disciplinary Action for Certain Violations) and §155.0592 (Disciplinary Action for Certain Violations), and enacted new Health and Safety Code, §161.0901 (Disciplinary Action Against Cigarette, E-cigarette, and Tobacco Product Retailers).

The comptroller revises the title of this section to add the term e-cigarette. Health and Safety Code, §161.0901 allows the comptroller to impose civil penalties on e-cigarette retailers, as well as retailers of cigarettes, cigars, and tobacco products.

New subsection (a) explains how a permit holder may request a hearing after the comptroller issues a written notice of violation of Health and Safety Code, §161.0901. This subsection adds a reference to §3.1204 of this title (relating to Administrative Remedies for Violations of Health and Safety Code, Chapter 161, Subchapter H or K). This subsection memorializes the comptroller's current practice that a permit holder must make a written request for a hearing within 20 calendar days of the date on the written notice of violation. This subsection also explains that a written request for a hearing is considered submitted by the date-stamp affixed by the agency mail room, consistent with §1.10(c) of this title (relating to Requesting a Hearing).

New subsection (b) explains that the Rules of Practice and Procedure generally apply to hearings held pursuant Health and Safety Code, §161.0901, except that a permit holder is not required to submit a statement of grounds, and the AHS will not issue a position letter. When a hearing is timely requested, the AHS will docket the hearing at the State Office of Administrative Hearings. This subsection memorializes the comptroller's current practice.

The comptroller proposes to delete existing subsections (a) - (c). The substance of these subsections is addressed in greater detail in other sections of this title. In addition, existing subsections (a) and (c) reference Tax Code provisions that were repealed by Senate Bill 248.

No comments were received regarding adoption of the amendments.

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 (State Taxation).

This section implements Tax Code, §111.00455 (Contested Cases Conducted by State Office of Administrative Hearings) and Health and Safety Code, §161.0901 (Disciplinary Action Against Cigarette, E-cigarette, and Tobacco Product Retailers).

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

Filed with the Office of the Secretary of State on May 19, 2022.

TRD-202201952

Jennifer Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

Effective date: June 8, 2022

Proposal publication date: March 11, 2022

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



CHAPTER 7. PREPAID HIGHER EDUCATION TUITION PROGRAM

SUBCHAPTER K. HIGHER EDUCATION SAVINGS PLAN

34 TAC §7.103

The Comptroller of Public Accounts adopts amendments to §7.103, concerning tax benefits and securities laws exemptions, without changes to the proposed text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1868). The rule will not be republished.

The amendments to subsection (c) clarify that the plan manager will monitor the aggregate contributions rather than the account balance to determine whether an account has exceeded the amounts necessary to provide for the qualified higher education expenses of the beneficiary, as required under Internal Revenue Code, §529(b)(6).

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

This amendment is adopted under Education Code, §54.702(a), which authorizes the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement Education Code, Chapter 54, Subchapter G (Higher Education Savings Plan).

This amendment implements Education Code, Chapter 54, Subchapter G.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201885

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: June 6, 2022

Proposal publication date: April 8, 2022

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



SUBCHAPTER N. TEXAS ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) PROGRAM

34 TAC §7.198

The Comptroller of Public Accounts adopts new §7.198, concerning ABLE program advisory committee, without changes to the proposed text as published in the April 8, 2022, issue of the *Texas Register* (47 TexReg 1869). The rule will not be republished.

The new section will be under Chapter 7, Prepaid Higher Education Tuition Program, Subchapter N, Texas Achieving a Better Life Experience (ABLE) Program.

The new section implements Senate Bill 702, 87th Legislature, R. S., 2021. Senate Bill 702 adds Education Code, §54.6181, which allows the Texas Prepaid Higher Education Tuition Board ("Board") by rule to establish an advisory committee to make recommendations to the board on programs, rules, and policies administered by the board.

Subsection (a) establishes the advisory committee and outlines the role, responsibility and goal of the committee.

Subsection (b) sets forth the number of committee members and their required backgrounds.

Subsection (c) gives the comptroller authority to designate one appointed member to act as the presiding officer of the committee.

Subsection (d) designates the term length for members appointed to the committee.

Subsection (e) gives the comptroller authority to make initial appointments to the committee and fill vacancies.

Subsection (f) requires the advisory committee to meet at least once every six months or more frequently if the presiding officer or the comptroller finds it necessary.

Subsection (g) sets quorum for the committee at two-thirds of the appointed members.

Subsection (h) requires members to complete training prior to becoming an active voting member of the committee.

Subsection (i) provides that committee members are not entitled to compensation or reimbursement for travel expenses.

Subsection (j) requires the committee to adopt an ethics and conflicts of interest policy.

Subsection (k) requires the board to evaluate the continuing need for the committee at least once every two years and gives

the board the authority to abolish the committee if it is no longer needed.

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

The new section is adopted under Education Code, §54.6181, which permits the board to establish advisory committees by rule.

The new section implements Education Code, Chapter 54, Subchapter J (Texas Achieving a Better Life Experience (ABLE) Program) and Section 54.6181.

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201886

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: June 6, 2022

Proposal publication date: April 8, 2022

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



PART 6. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 129. DOMESTIC RELATIONS ORDERS

The Board of Trustees (Board) of the Texas Municipal Retirement System (TMRS or the System) adopts the repeal of current 34 TAC Chapter 129, §§129.1 - 129.14, relating to Domestic Relations Orders, without changes to the proposed text as published in the February 11, 2022, issue of the *Texas Register* (47 TexReg 635). The repeals will not be republished.

TMRS repeals the following rules: 34 TAC §129.1, Purpose; 34 TAC §129.2, Definitions; 34 TAC §129.3, Notice Regarding Receipt of Order; 34 TAC §129.4, Requirements for Qualified Domestic Relations Orders; 34 TAC §129.5, Contents of Domestic Relations Order; 34 TAC §129.6, Order Should Divide All Benefits; 34 TAC §129.7, Conditional Approval of Order; 34 TAC §129.8, Payments Under Conditionally Approved Order; 34 TAC §129.9, Order Appearing Not to Qualify; 34 TAC §129.10, Procedures for Determination--Contested Order; 34 TAC §129.11, Procedure for Obtaining Formal Hearing; 34 TAC §129.12, Payments to Alternate Payees; 34 TAC §129.13, Form of Qualified Domestic Relations Order; and 34 TAC §129.14, Provisions Incorporated by Reference. The repeals are effective July 1, 2022.

The Board of TMRS adopts new 34 TAC Chapter 129, §§129.1 - 129.14, relating to Domestic Relations Orders, without changes to the proposed text as published in the February 11, 2022, issue of the *Texas Register* (47 TexReg 637). The rules will not be republished.

TMRS adopts the following rules: 34 TAC §129.1, Purpose; 34 TAC §129.2, Definitions; 34 TAC §129.3, Notice Regarding Receipt of Order; 34 TAC §129.4, Requirements for Qualified Domestic Relations Orders; 34 TAC §129.5, Contents of Domestic Relations Order; 34 TAC §129.6, Order Should Divide All Ben-

efits; 34 TAC §129.7, Conditional Approval of Order; 34 TAC §129.8, Payments Under Conditionally Approved Order; 34 TAC §129.9, Order Appearing Not to Qualify; 34 TAC §129.10, Procedures for Determination - Contested Order; 34 TAC §129.11, Procedure for Obtaining Formal Hearing; 34 TAC §129.12, Payments to Alternate Payees; 34 TAC §129.13, Form of Qualified Domestic Relations Order; and 34 TAC §129.14, Provisions Incorporated by Reference. The rules are effective July 1, 2022.

BACKGROUND AND PURPOSE

New Chapter 129 is adopted to update, modernize, and provide clarification to its rules relating to domestic relations orders. Statutes specific to TMRS are found in Title 8, Subtitle G, Chapters 851 through 855, Texas Government Code (the "TMRS Act"). TMRS may promulgate rules it deems necessary to implement the TMRS Act and Texas Government Code Chapter 804 ("Chapter 804") regarding qualified domestic relations orders and spousal consent. In addition, the repeal and replacement of Chapter 129 is adopted as a result of TMRS's rule review, which was conducted pursuant to Texas Government Code §2001.039.

One provision of the new Chapter 129 rules is unchanged from existing rules; this rule is found in new 34 TAC §129.1, Purpose. Six rules for new Chapter 129 are amended to make clarifying changes to better reflect how the System interprets and administers the rules and how Chapter 804 applies to domestic relations orders and to update references to laws or other TMRS rules that have been amended; these six rules are found in new 34 TAC §129.2, Definitions; 34 TAC §129.3, Notice Regarding Receipt of Order; 34 TAC §129.8, Payments Under Conditionally Approved Order; 34 TAC §129.11, Procedure for Obtaining Formal Hearing; 34 TAC §129.12, Payments to Alternate Payees; and 34 TAC §129.14, Provisions Incorporated by Reference. Substantive changes, however, are adopted in the seven remaining new rules, which changes are described as follows: adds a provision stating that TMRS has prescribed QDRO forms designed to allow parties to properly divide a Member's benefits under the TMRS Act, and that TMRS may reject a domestic relations order as not qualified that is not based on one of TMRS' forms (in §129.4, Requirements for Qualified Domestic Relations Orders); adds an applicable QDRO requirement pursuant to Chapter 804 (in §129.5, Contents of Domestic Relations Order); adds language to provide that, if a pre-retirement QDRO is not clear how to divide future interest credited on accumulated contributions after the date of divorce until the time benefit payments begin, then the portion of benefits awarded to the alternate payee will be allocated its proportionate share of future interest (in §129.6, Order Should Divide All Benefits); changes the timing for contesting a conditional approval of a QDRO from 2 weeks beginning on the date of mailing of the notice to 2 weeks beginning on the date of the notice (in §129.7, Conditional Approval of Order); clarifies how existing processes work, including possible holds on payments, if a TMRS Member is pre-retirement or post-retirement when TMRS receives an order and determines it does not qualify; and, rearranges the rule's structure and makes non-substantive clarifications (in §129.9, Order Appearing Not to Qualify); adds procedures, including possible holds on payments, for where a party contests TMRS' determination that an order received does meet the QDRO requirement, and shortens the time period after the contest is made for appropriate procedures to begin; and, makes non-substantive clarifications (in §129.10 Procedures for Determination - Contested Order); and, replaces language previously setting out a single pre-approved QDRO form in the rule itself with new language regarding the

use of any of TMRS' pre-approved QDRO forms, and makes clarifying non-substantive changes (in §129.13, Form of Qualified Domestic Relations Order).

No comments were received regarding the adoption of the repeal and new Chapter 129.

34 TAC §§129.1 - 129.14

STATUTORY AUTHORITY

The repeal of existing Chapter 129 is adopted under the authority granted under the following provisions of the TMRS Act or the Texas Government Code: (i) Government Code §855.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of the System; (ii) Government Code §855.201, which allows the Board to delegate to the executive director powers and duties provided to the Board by the TMRS Act; (iii) Government Code §804.003, which allows the Board to promulgate rules it deems necessary to implement the provisions of that section; and (iv) Government Code §2001.039, which grants the Board the authority to review and repeal rules after assessment of whether the reasons for initially adopting the rule continue to exist.

CROSS-REFERENCE TO STATUTES

Texas Government Code: §§804.003, 852.103, 854.006, 854.501, 854.101-854.105, 854.405-854.411, 854.603-854.605.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201980

Christine M. Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Effective date: July 1, 2022

Proposal publication date: February 11, 2022

For further information, please call: (512) 225-3710



34 TAC §§129.1 - 129.14

STATUTORY AUTHORITY

The new Chapter 129 rules are adopted pursuant to the authority granted under the following provisions of the TMRS Act or the Texas Government Code: (i) Government Code §855.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of the System; (ii) Government Code §855.201, which allows the Board to delegate to the executive director powers and duties provided to the Board by the TMRS Act; and (iii) Government Code §804.003, which allows the Board to promulgate rules it deems necessary to implement the provisions of that section. In addition, the rule changes are adopted as a result of TMRS's rule review, which was conducted pursuant to Texas Government Code §2001.039.

CROSS-REFERENCE TO STATUTES

Texas Government Code: §§804.003, 852.103, 854.006, 854.501, 854.101-854.105, 854.405-854.411, 854.603-854.605.

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

Filed with the Office of the Secretary of State on May 23, 2022.

TRD-202201981

Christine M. Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Effective date: July 1, 2022

Proposal publication date: February 11, 2022

For further information, please call: (512) 225-3710



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 145. PAROLE

SUBCHAPTER A. PAROLE PROCESS

37 TAC §145.19

The Texas Board of Pardons and Paroles adopts the new rule in 37 TAC Chapter 145, Subchapter A, §145.19 concerning Action Upon Review; Early Release on Parole. The rule is adopted with changes to the proposed text as published in the March 25, 2022, issue of the *Texas Register* (47 TexReg 1607). The rule will be republished.

The rule is adopted to implement amendments made to Government Code, Chapter 508, by House Bill (H.B.) 2352, 87th Legislature, Regular Session. H.B. 2352 amended Subchapter E, Chapter 508, Government Code, by adding Section 508.1455, which requires the Board to release certain offenders on parole 180 days before their parole eligibility date, and requires the offender to participate in a program operated by TDCJ following their release.

No public comments were received regarding adoption of this rule.

The new rule is adopted under §§508.036(b) and 508.0441, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.1455 authorizes the Board to adopt rules governing the release of an inmate on parole under this section.

§145.19. Action Upon Review; Early Release on Parole.

(a) This section applies only to an eligible offender who has been identified by TDCJ as a suitable candidate for participation in an educational and vocational training pilot program.

(b) If TDCJ determines an offender is a suitable candidate for early release on parole:

(1) the offender shall be provided written notice of the early release on parole review and shall have 30 days from the receipt of the notice to submit, in writing, information to the Board; and

(2) after the expiration of the 30-day time period, the case shall be referred to a parole panel who will consider the case for early

release on parole approximately 180 days prior to the offender's parole eligibility date.

(c) Upon considering a case for early release on parole, a parole panel may:

- (1) vote early release on parole; or
- (2) vote deny early release on parole.

(d) If the parole panel votes to deny early release on parole, the offender shall be considered for release on parole on the date that the offender would otherwise have been considered for release on parole.

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

Filed with the Office of the Secretary of State on May 20, 2022.

TRD-202201962

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective date: June 9, 2022

Proposal publication date: March 25, 2022

For further information, please call: (512) 408-5478



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 460. FUND FOR VETERANS' ASSISTANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE FUND FOR VETERANS' ASSISTANCE PROGRAM

40 TAC §460.3

The Texas Veterans Commission (commission) adopts the amendments to Chapter 460, Subchapter A, §460.3, Applicant Eligibility. This amendment is adopted with changes to the proposed text as published in the February 25, 2022, issue of the *Texas Register* (47 TexReg 892). The rule will be republished.

The rule amendment is adopted to eliminate language that could inadvertently exclude eligible applicants.

No comments were received regarding the proposed amendments.

The rule amendment is adopted under Texas Government Code §434.010, which authorizes the commission to establish rules it considers necessary for its administration, and Texas Government Code Section §434.0101.

§460.3. Applicant Eligibility.

(a) Any of the following are eligible to apply for grant funds:

- (1) Units of local government;
- (2) IRS Code §501(c)(19) Posts or Organizations of Past or Present Members of the Armed Forces;
- (3) IRS Code §501(c)(3) nonprofit organizations authorized to do business in Texas; or
- (4) Texas chapters of IRS Code §501(c)(4) veterans service organizations.

(b) Any of the following are not eligible to apply for grant funds:

- (1) Individuals;
- (2) For-profit entities;
- (3) Units of federal or state government, state agencies, colleges, and universities;
- (4) Organizations that have not fulfilled all legal requirements to operate in the state of Texas; and
- (5) Organizations that do not have current operations in Texas or a Texas-based chapter.

(c) Other than counties or municipalities, applicants must provide proof of:

- (1) professional liability and/or malpractice insurance; and
- (2) financial stability, pursuant to §460.7 of this title (relating to Determination of Financial Stability).

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

Filed with the Office of the Secretary of State on May 17, 2022.

TRD-202201884

Houston John Goodell

General Counsel

Texas Veterans Commission

Effective date: June 6, 2022

Proposal publication date: February 25, 2022

For further information, please call: (512) 463-3288



TRANSFERRED RULES

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

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 2, Local Authority Responsibilities, Subchapter L, Service Coordination For Individuals With An Intellectual Disability are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 331, LIDDA Service Coordination.

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

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 2, Subchapter L

TRD-202201973



Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 2, Local Authority Responsibilities, Subchapter L, Service Coordination For Individuals With An Intellectual Disability are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 331, LIDDA Service Coordination.

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

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 2, Subchapter L

TRD-202201974



Figure: 40 TAC Chapter 2, Subchapter L

Current Rules Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 2. Local Authority Responsibilities Subchapter L. Service Coordination For Individuals With An Intellectual Disability	Move to Title 26. Health and Human Services Part 1. Health and Human Services Commission Chapter 331. LIDDA Service Coordination
§2.551. Purpose.	§331.1. Purpose.
§2.552. Application.	§331.3. Application.
§2.553. Definitions.	§331.5. Definitions.
§2.554. Eligibility.	§331.7. Eligibility.
§2.555. Funding Service Coordination.	§331.9. Funding Service Coordination.
§2.556. LIDDA's Responsibilities.	§331.11. LIDDA's Responsibilities.
§2.557. Caseloads.	§331.13. Caseloads.
§2.558. Termination of Service Coordination.	§331.15. Termination of Service Coordination.
§2.559. Minimum Qualifications.	§331.17. Minimum Qualifications.
§2.560. Staff Person Training.	§331.19. Staff Person Training.
§2.561. Documentation of Service Coordination.	§331.21. Documentation of Service Coordination.
§2.562. Review Process.	§331.23. Review Process.

REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Department of Information Resources

Title 1, Part 10

The Texas Department of Information Resources (DIR) files this notice of intention to review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 1, Chapter 206, §§206.1 - 206.75, concerning State Websites. The review and consideration of the rules are conducted in accordance with Texas Government Code § 2001.039. The review will include, at a minimum, an assessment by DIR of whether the reasons the rules were initially adopted continue to exist and whether the rules should be re-adopted.

Any questions or written comments pertaining to this rule review may be submitted to Christi Koenig Brisky, Assistant General Counsel, via mail at P.O. Box 13654, Austin, Texas 78711, via facsimile transmission at (512) 475-4759, or via electronic mail to rule.review@dir.texas.gov. The deadline for comments is thirty (30) days after publication of this notice in the *Texas Register*. Any proposed changes to the rules as a result of the rule review will be published in the Proposed Rules section of the *Texas Register*. The proposed rule changes will be open for public comment prior to the final adoption or repeal of the rule by DIR in accordance with the requirements of the Texas Administrative Procedure Act, Texas Government Code Chapter 2001.

TRD-202201978
Joshua Godbey
General Counsel
Department of Information Resources
Filed: May 20, 2022



Office of Consumer Credit Commissioner

Title 7, Part 5

On behalf of the Finance Commission of Texas (commission), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 86, concerning Retail Creditors.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before the 30th day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this

chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to rule.comments@occc.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional public comment period prior to final adoption or repeal by the commission.

TRD-202202026
Matthew Nance
Deputy General Counsel
Office of Consumer Credit Commissioner
Filed: May 24, 2022



Teacher Retirement System of Texas

Title 34, Part 3

The Teacher Retirement System of Texas (TRS) publishes this notice of intention to review all TRS rules in Chapters 21 through 51 in Title 34, Part 3 of the Texas Administrative Code.

TRS will review these rules pursuant to and in accordance with the requirements of section 2001.039 of the Texas Government Code. TRS will determine whether the reasons for initially adopting each rule continue to exist. If it is determined during this review that any section within the chapters being reviewed should be repealed or amended, the repeal or amendment will be initiated under a separate proceeding after completion of the rule review. In addition, TRS's review of TRS Rule 41.33 (relating to Definitions Applicable to the Texas School Employees Uniform Group Health Coverage Program) will be of that rule as it is proposed to be amended elsewhere in this issue of the *Texas Register*.

Written comments pertaining to this proposed rule review must be submitted to Brian Guthrie, Executive Director, Teacher Retirement System of Texas, 1000 Red River Street, Austin, Texas 78701. The deadline for written comments is 30 days after publication of this proposed rule review notice in the *Texas Register*.

The following chapters are available for review at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.View-TAC?tac_view=3&ti=34&pt=3](https://texreg.sos.state.tx.us/public/readtac$ext.View-TAC?tac_view=3&ti=34&pt=3)

Chapter 21. Purpose and Scope

Chapter 23. Administrative Procedures

Chapter 25. Membership Credit

Chapter 27. Termination of Membership and Refunds

Chapter 29. Benefits
Chapter 31. Employment After Retirement
Chapter 33. Legal Capacity
Chapter 35. Payments by TRS
Chapter 39. Proof of Age
Chapter 41. Health Care and Insurance Programs
Chapter 43. Contested Cases
Chapter 47. Qualified Domestic Relations Orders
Chapter 49. Collection of Delinquent Obligations
Chapter 51. General Administration
TRD-202202030
Brian Guthrie
Executive Director
Teacher Retirement System of Texas
Filed: May 25, 2022

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Adopted Rule Reviews

Texas Education Agency

Title 19, Part 2

Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 102, Educational Programs, Subchapter AA, Commissioner's Rules Concerning Early Childhood Education Programs; Subchapter CC, Commissioner's Rules Concerning Coordinated Health Programs; Subchapter DD, Commissioner's Rules Concerning the Texas Accelerated Science Achievement Program Grant; Subchapter EE, Commissioner's Rules Concerning Pilot Programs; Subchapter FF, Commissioner's Rules Concerning Educator Award Programs; Subchapter GG, Commissioner's Rules Concerning College and Career Readiness School Models; Subchapter HH, Commissioner's Rules Concerning the Texas Adolescent Literacy Academies; Subchapter II, Commissioner's Rules Concerning Texas High Performance Schools Consortium; Subchapter JJ, Commissioner's Rules Concerning Innovation District; Subchapter KK, Commissioner's Rules Concerning Compliance Investigations in Connection with State-Funded Education Program Grant; and Subchapter LL, Commissioner's Rules Concerning Innovative Instructional Programs, pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 102 in the August 20, 2021 issue of the *Texas Register* (46 TexReg 5257).

Subchapter BB, Commissioner's Rules Concerning Master Teacher Grant Programs, was not subject to review since the rules will be repealed. House Bill 3, 86th Texas Legislature, 2019, repealed Texas Education Code (TEC), §§21.410-21.413, which provided rulemaking authority for the rules. In addition, §102.1053, Mathematics Instructional Coaches Pilot Program, in Subchapter EE was not subject to review since the rule will be repealed. Senate Bill 1267, 87th Texas Legislature, Regular Session, 2021, repealed TEC, §21.4541, which provided rulemaking authority for the rule.

Relating to the review of 19 TAC Chapter 102, Subchapter AA, TEA finds that the reasons for adopting Subchapter AA continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter AA. At a later date, TEA anticipates amending prekindergarten eligibility criteria to include a child who is or ever has been in foster care in another state or territory if the child resides in this state.

Relating to the review of 19 TAC Chapter 102, Subchapter CC, TEA finds that the reasons for adopting Subchapter CC continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter CC. No changes are necessary as a result of the review of Subchapter CC.

Relating to the review of 19 TAC Chapter 102, Subchapter DD, TEA finds that the reasons for adopting Subchapter DD continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter DD. No changes are necessary as a result of the review of Subchapter DD.

Relating to the review of 19 TAC Chapter 102, Subchapter EE, §§102.1051 and 102.1055-102.1058, TEA finds that the reasons for adopting §§102.1051 and 102.1055-102.1057 continue to exist and readopts the rules. TEA finds that the reasons do not exist for adoption §102.1058. TEA received no comments related to the review of §§102.1051 and 102.1055-102.1058. At a later date, TEA anticipates repealing §102.1058 since the statutory authority no longer exists.

Relating to the review of 19 TAC Chapter 102, Subchapter FF, TEA finds that the reasons for adopting Subchapter FF continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter FF. No changes are necessary as a result of the review of Subchapter FF.

Relating to the review of 19 TAC Chapter 102, Subchapter GG, TEA finds that the reasons for adopting Subchapter GG continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter GG. No changes are necessary as a result of the review of Subchapter GG.

Relating to the review of 19 TAC Chapter 102, Subchapter HH, TEA finds that the reasons for adopting the rule in Subchapter HH do not continue to exist. TEA received no comments related to the review of Subchapter HH. At a later date, TEA anticipates repealing §102.1101 since the statutory authority no longer exists.

Relating to the review of 19 TAC Chapter 102, Subchapter II, TEA finds that the reasons for adopting Subchapter II continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter II. No changes are necessary as a result of the review of Subchapter II.

Relating to the review of 19 TAC Chapter 102, Subchapter JJ, TEA finds that the reasons for adopting Subchapter JJ continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter JJ. No changes are necessary as a result of the review of Subchapter JJ.

Relating to the review of 19 TAC Chapter 102, Subchapter KK, TEA finds that the reasons for adopting Subchapter KK continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter KK. At a later date, TEA plans to propose an amendment to §102.1401 to update cross references to statute.

Relating to the review of 19 TAC Chapter 102, Subchapter LL, TEA finds that the reasons for adopting Subchapter LL continue to exist and readopts the rules. TEA received no comments related to the review of Subchapter LL. No changes are necessary as a result of the review of Subchapter LL.

This concludes the review of 19 TAC Chapter 102.

TRD-202202033
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: May 25, 2022



Department of State Health Services

Title 25, Part 1

On behalf of the Texas Department of State Health Services (DSHS), the Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 25, Part 1 of the Texas Administrative Code:

Chapter 91, Cancer

Subchapter A, Cancer Registry

§91.1 - Purpose

§91.2 - Definitions

§91.3 - Who Reports, Access to Records

§91.4 - What to Report

§91.5 - When to Report

§91.6 - How to Report

§91.7 - Where to Report

§91.8 - Compliance

§91.9 - Confidentiality and Disclosure

§91.10 - Quality Assurance

§91.11 - Requests for Statistical Cancer Data

§91.12 - Requests and Release of Confidential Cancer Data

Notice of the review of this chapter was published in the March 4, 2022, issue of the *Texas Register* (47 TexReg 1107). HHSC received no comments concerning this chapter.

DSHS has reviewed Chapter 91 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in this chapter continue to exist and readopts Chapter 91. Any appropriate amendments to Chapter 91 identified by the agency during the rule review will be published in the Proposed Rules section of a future issue of the *Texas Register*; and will be open for public comment prior to final adoption by the agency.

This concludes agency's review of 25 TAC Chapter 91, Cancer, as required by the Government Code, §2001.039.

TRD-202201954

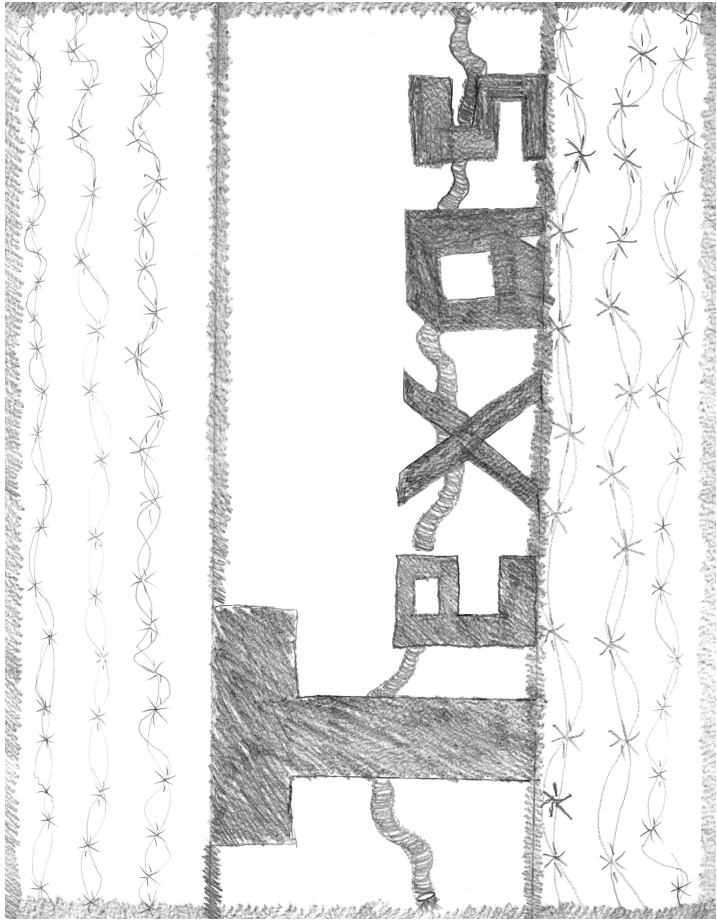
Mahan Farman-Farmaian

Director, Rules Coordination Office

Department of State Health Services

Filed: May 19, 2022





TABLES & GRAPHICS

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

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

Figure: 16 TAC §34.2(e)

DESCRIPTION	Code (§) and Rule Citation(s)	1 ST Violation	2 nd Violation	3 rd Violation
Employing a minor to sell, serve, prepare, or otherwise handle alcoholic beverages	§§61.71(a)(11), 106.09	5-7 days	10-14 days	30 days-Cancel
Permitting a minor to possess or consume an alcoholic beverage	§106.13	3-5 days	6-10 days	18 days-Cancel
Selling an alcoholic beverage to a minor	§106.03	8-12 days	16-24 days	48 days-Cancel
Conducting business in a manner as to allow a simple breach of the peace with no serious bodily injury or deadly weapon involved (as defined in the Texas Penal Code)	§§22.12, 24.11, 28.11, 32.24, 69.13, 71.09	3-5 days	6-10 days	18 days-Cancel
Conducting business in a manner as to allow an aggravated breach of the peace with a serious bodily injury, death or involving a deadly weapon (as defined in the Texas Penal Code)	§§22.12, 24.11, 28.11, 32.24, 69.13, 71.09	25-35 days	Cancel	Cancel
Failure to report a breach of the peace	§§11.61(b)(21), 61.71(a)(30)	2-5 days	4-10 days	12 days-Cancel
Possession of, sale or delivery of, or permitting the sale or delivery of narcotics or synthetic cannabinoids by a licensee or permittee or possession of any equipment used or designed for the administering of narcotics or synthetic cannabinoids	§104.01	25-35 days	Cancel	Cancel

Selling or serving an alcoholic beverage to an intoxicated person – no associated bodily injury or death	§§11.61(b)(14), 61.71(a)(6), 101.63	8-12 days	16-24 days	Cancel
Intoxication of the license or permit holder or any employee on a licensed premise	§§11.61(b)(13), 104.01(a)(5)	17-25 days	34-50 days	Cancel
Soliciting any person to buy drinks for consumption by the retailer or any of its employees, servants, or agents	§104.01(a)(4)	30 days- Cancel	Cancel	Cancel
Permitting public lewdness, sexual contact, or obscene acts, or exposure of a person or permitting a person to expose themselves on a licensed premises	§§61.71(a)(10), 104.01(a)	5-7 days	10-14 days	Cancel
Selling, serving, or delivering alcoholic beverages during prohibited hours or consuming or permitting consumption of an alcoholic beverage during prohibited hours on a licensed premises	§§11.61(b)(22), 61.71(a)(17), 105.01-105.10	8-12 days	16-24 days	Cancel
Refusing inspection of premises	§101.04	10-14 days	30-Cancel	Cancel
Rudely displaying or permitting a person to rudely display a weapon in a retail establishment	§104.01 (a)(3)	5-7 days	10-14 days	30-Cancel
Trafficking of an adult with intent that adult engage in forced labor or services or receiving a benefit including labor or services per §20A.02(1-2) of the Penal Code;		Cancel	Cancel	Cancel

<p>Trafficking an adult through force, fraud, coercion, causing prostitution-related conduct, receiving a benefit, or engaging in sexual conduct with an adult per §20A.02(3-4) of the Penal Code;</p> <p>Trafficking of one child with intent that child engage in forced labor or services, or receiving a benefit of such trafficking, including labor or services per §20A.02(5-6) of the Penal Code;</p> <p>Trafficking of one child causing child to engage in, be victim of, or conduct prohibited by sexual offenses described in §20A.02(7), received benefit, or participation in sexual conduct with a child trafficked per §20A.02(7-8) of the Penal Code;</p> <p>Continuous trafficking of persons under §20A.03 of the Penal Code</p>				
Prostitution		30 days - Cancel	Cancel	Cancel
Promotion of prostitution		Cancel	Cancel	Cancel
Prohibited Activities by Persons Younger Than 18	§106.15	5 days	60 days	Cancel
Presence or Employment of Certain Minors at Sexually Oriented Business	§106.17	30 days	60 days	Cancel

Failure to timely provide records, including videos, related to violation not involving serious bodily injury or death or any smuggling or trafficking-related offense	§§5.32, 5.44, 11.61(b)(2), 61.71(a)(1)	8-12 days	16-24 days	Cancel
Failure to timely provide records, including videos, related to violation involving serious bodily injury or death or any smuggling or trafficking-related offense	§§5.32, 5.44, 11.61(b)(2), 61.71(a)(1)	30 days	60 days	Cancel

Figure: 16 TAC §34.10(g)

	\$250		\$500		\$1,000
Failure to Display License or Permit	§§11.04 and 61.01	Permit Minor in Package Store	§109.53	Open Saloon - Sale to Non-Member	§§32.01(a), 32.17 (a)(1) and 32.17 (b)
Failure to Timely File Monthly Report	§§201.075 (DS & Wine), 203.13 (Malt Bev)	Cash Law	§§61.73 and 102.31; Rule 45.131	Conspiracy to Receive Unlawful Benefit	§104.03
Failure to Pay State Franchise Tax	§§11.61(b)(5), 61.712	Credit Law	§102.32; Rule 45.130	Inducement	§§102.04 (b)(6);102.07 (a)(8); 102.12; 108.06; Rule 45.110
Failure to Pay State Hotel Tax	§§11.61(b)(5), 61.712	Private Club - Storage of Alco. Bev. not Owned by Members	§32.01(a)(1); Rule 41.56	Unlawful Agreement	§102.16
Failure to Maintain Acceptable Gross Receipts or Sales Tax Bond	§28.17	Inspection Refusal	§32.12	Illegal Contract/Alternating Brewing/Manufacturing	§62.14
Failure to Maintain Acceptable Alco. Bev. Excise Tax Bond	§§204.01 - .03	Maintaining a Noisy Establishment	§11.61(b)(9)	Illegal Contract Distilling - Spirits	§§11.06; 14.01
Failure to Maintain Acceptable Conduct Surety Bond	§§11.11(a)(2), 61.13; Rule 33.41	Maintaining an Unsanitary Establishment	§11.61(b)(9)	Refilling Distilled Spirits Bottle on Licensed Premise	§28.08
Failure to Report Corporate Change	§28.04 and Rule 33.94	Brand Substitution w/o Customer Consent	§§28.081;104.04; 61.74(a)(13)	Permitting Removal of Alco. Bev. from Premise	§§28.10, 32.17(a)(4)

\$250		\$500		\$1,000	
Possession of Unauthorized Alco. Bev.	§§25.09, 26.01(a), 69.12, 71.04	Poss. of Distilled Spirits w/o ID Stamp (Local Dist. Stamp)	§§28.15(a); 32.20(a)	Sell/Deliver Alco. Bev. while under Suspension	\$11.68
Failure to Maintain Acceptable State Sales Tax Bond	§11.61(b)(8)	Failure to Invalidate ID Stamps	§28.09(a); Rule 41.60(h)	Operating without Required License or Permit	§§11.01, 61.01
Failure to Pay State Sales Tax	§§11.61(c)(2), 61.712	Mixed Bev. – Possession of Un-invoiced/Unauthorized Alco. Bev.	§28.06 (a), (b)	Permit Consumption of Malt Beverage at Off- Premise Location	\$71.01
Failure to Pay or Report Mixed Bev. Gross Receipts or Sales Tax	§§11.61(b)(5), 61.712	Possession of Alco. Bev. Unfit for Consumption	§103.07	Store Alco. Bev. Off Licensed Premise	§§69.10, 71.06
Failure to Maintain Performance Bond	§§11.61(b)(8), 61.71(a)(I)	Sell/Deliver Alco. Bev. in Open Container	§§22.11, 24.10	False/Misleading Statement in Application, Document, Report Etc.	§§11.46 (a)(4), 11.61(b)(4), 61.43(a)(4), and/or 61.71(a)(4) and (11)
Failure to Timely Provide Records	§§5.32, 5.44 (a)(6); Rule 41.2	Acquired Alco. Bev. from Another Retailer	§§69.09, 71.05	Illegal Interior Signage	§61.74(a)(1); Rule 45.113(d)
Failure to Maintain or Properly Document Invoices	§5.32; Rule 41.2	Purchase of Alco. Bev. while on Delinquent List	§102.32; Rule 45.130(g)	Prohib. Relationship with Different Levels of Industry	§§102.01; 102.07; 102.15
Failure to Operate under the Required Tradename	§§61.05, 108.52(c)	Consignment Sale of Alco. Bev.	§§102.07(a)(4); 61.71(a)(8)	Sale to Respondent on Delinquent List	§102.32(d); Rule 45.130(f)

\$250		\$500		\$1,000	
Outdoor Advertising Violation	Code Chapter 108	Sale away from Licensed Premise	§§11.06, 61.06, 32.17(a)(4)	No Permanent Food Service Facility at Addressed Location	§§25.13, 28.18, 32.23, 69.16; Rule 33.5(c)
Failure to Post Required Sign	§§11.042, 26.05, 61.111, 71.10, 104.07; Rule 31.4	On-Premises Promotions	Rule 45.103	Ineffective Instruction	Rules 50.3(e), 50.4(b), 50.5(b)
Food & Bev. Permit Holder: Incomplete / Missing Records	§5.32; Rule 33.5 (f), (k)	Session Class Size Exceeds 50	Rules 50.6(a), 50.26(b)(1), (b)(17)	Illegal Sampling / Tasting Event	§§16.01(c), 24.12, 26.08, 37.01
Failure to Complete or File Excise Tax Report	§5.32, Rule Ch. 41, Subch. C	Failure to Place Retailer on Delinquent List	Rule 45.130	Program Taught by Uncertified Trainer	Rule 50.25(c)
Failure to Meet Trainer Certification Requirements	Rule 50.26(b)	Failure to Report Cash Law Violation	§102.31(c); Rule 45.131(e)	In-House Program Certified Non-Employees	Rule 50.8
Failure to Properly Issue Trainee Certificates	Rule 50.9(b), (c)	Failure to Report Credit Law Violation	§102.32(d); Rule 45.130(e)	Exclusive Outlet	§§102.13, 109.08
Failure to Properly Schedule/Cancel Training Session	Rule 50.10(a), (b)	Transporting w/o Required Invoice	§§22.08, 23.04, 24.04; Rule 41.14	Commercial Bribery	§102.12
Failure to Meet Testing Requirements	Rule 50.26(b)(19)	Records Incomplete or Missing	§32.13; Rule 41.6	Prohibited Interest	§§22.06, 51.06, 102.03, 102.04, 102.09, 102.10, 102.11, 102.18
Failure to Meet Requirements-Sch/Pgm Certification	Rule 50.13	Membership/ Membership Committee Violations	§§32.09, 32.16; Rules 41.51, 41.56	Unauthorized Manufacturing/ Brewing Activity	§§11.01, 61.01

\$250		\$500		\$1,000	
Failure to Properly Prepare/File Session Reports	Rule 50.10(e)	Improper Financial Transactions	§32.06; Rules 41.53, 41.54	Transporting Liquor w/out Required Transport Permit	§§11.01, 41.01, 43.03
		No Written Consent to Scan DL/ID	§109.61(b); Rules 41.51(f), 41.56	Unauthorized Sale/Brew Products for On-Premise Consumption	§62.12, 62.122
		Adequate Food Service Not Available	Rule 33.5(c)	Place / Manner - Violated Waiver Order	§§11.61(b)(7), 61.71(a)(17); Rule 34.3
		Food Items Not Prepared/ Assembled on Premises	Rule 33.5(c)	Place / Manner - Over Serving	§§11.61(b)(7), 32.17(a)(8), 61.71(a)(17); Rule 34.3
		Alcohol Sale Hours beyond Food Sale Hours	Rule 33.5(d)	Place / Manner - Assaultive Offenses	§§11.61(b)(7), 32.17(a)(8), 61.71(a)(17); Rule 34.3
		Engage in Promotional Activity w/o License/Permit	§§35.01, 36.01, 50.001		
		Illegal Stocking/ Shelving/ Product Rotation	§102.20; Rule 45.109		
		Unauthorized Market Research	§§102.07, 108.06; Rule 45.113(b)(4)		
		Unauthorized Sweepstakes Contest	§§102.07(e), 108.061; Rule 45.106		

\$250	\$500		\$1,000
	Unauthorized Coupon	§§102.07(d), 108.06; Rule 45.113	
	Failed to Meet Labeling Requirements	§§37.07, 101.67	
	Illegal Bar Spending	§§102.07(g)(2), 102.15(b)(2); Rules 45.113, 45.117	
	Illegal Refund/ Exchange by Wholesaler/ Distributor	§§11.61(b)(2), 61.74(a)(1), 104.05(d), (e)	
	Possess/ Transport/ Store Illicit Beverage	§103.01	
	Food Service Not Available/ Adequate (Private Club)	§32.03(g); Rule 41.55	
	Failure to Maintain ID Stamp Reports	Rule 41.60	
	Possess Un-Affixed ID Stamps	§§28.151, 32.201	
	Unauthorized Repackaging of Alco. Bev.	§104.05	
	Unauthorized Breakdown & Sale of Alco. Bev. Co-packs	§§102.07(a)(5), 108.035; Rule 45.120(c)	

\$250	\$500		\$1,000
	Unauthorized Sale of Alco. Bev. to a Retailer	§§23.01(a)(2), 24.01(a)(2), 25.01(a)(1), 26.01(a), 69.01, 71.01.	
	Alco. bev. not in tamper-proof container	§§28.1001(a)(2)(C), 32.155(a)(2); Rule 41.16	

Figure: 22 TAC §519.9(a)

No.	Violation	Citation	Administrative Penalty Range
1	Failure to follow Generally Accepted Auditing Standards; Yellow Book Auditing Standards; AICPA Auditing Standards; and other auditing standards.	22 TEX. ADMIN. CODE §§501.60 & 501.74; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
2	Failure to follow Generally Accepted Accounting Principles	22 TEX. ADMIN. CODE §§501.53, 501.61 & 501.74; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
3	Failure to follow other Professional Standards (e.g. Compilation Standards)	22 TEX. ADMIN. CODE §§501.62 & 501.74; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
4	Lack of independence	22 TEX. ADMIN. CODE §§501.70 & 501.73 TEX. OCC. CODE §§901.458, 901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
5	Violation of rules regarding receipt of commission, compensation, or other benefit	22 TEX. ADMIN. CODE §501.71; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
6	Violation of rules regarding contingency fees	22 TEX. ADMIN. CODE §501.72; TEX. OCC. CODE	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.

		§§901.502(6) & 901.502(11)	
7	Lack of integrity and objectivity	22 TEX. ADMIN. CODE §501.73; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
8	Incompetence	22 TEX. ADMIN. CODE §501.74; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
9	Breach of confidential client communications	22 TEX. ADMIN. CODE §501.75; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
10	Failure to return client records or client's portion of work papers	22 TEX. ADMIN. CODE §501.76; TEX. OCC. CODE §§901.502(6) & 901.502(11)	\$0 to \$25,000 per violation.
11	Acting through others	22 TEX. ADMIN. CODE §501.77 (AND THE RULE VIOLATED BY THE ACTOR); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
12	Practicing without a license	22 TEX. ADMIN. CODE §501.80; TEX. OCC. CODE §§901.401, 901.453, 901.456, 901.502(6) & 901.502(11)	\$0 to \$25,000 per violation.

13	Practicing through an unregistered entity	22 TEX. ADMIN. CODE §501.81; TEX. OCC. CODE §§901.401, 901.502(6) & 901.502(11)	\$0 to \$25,000 per violation.
14	False, fraudulent, misleading, or deceptive advertising	22 TEX. ADMIN. CODE §501.82; TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$1,000 per violation. Moderate: \$1,000 to \$50,000 per violation. Major: \$50,000 to \$100,000 per violation.
15	Improper firm name	22 TEX. ADMIN. CODE §501.83; TEX OCC. CODE §§901.502(6) & 901.502(11)	\$0 to \$10,000 per violation.
16	Improper form of practice	22 TEX. ADMIN. CODE §501.84; TEX. OCC. CODE §§901.502(6) & 901.502(11)	\$0 to \$10,000 per violation.
17	Committing discreditable acts (1) fraud or deceit in obtaining a certificate as a CPA or in obtaining registration under the Act or in obtaining a license to practice public accounting	22 TEX. ADMIN. CODE §501.90(1); TEX. OCC. CODE §§901.502(1), 901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
18	Committing discreditable acts (2) dishonesty, fraud or gross negligence in the practice of public accountancy	22 TEX. ADMIN. CODE §501.90(2); TEX. OCC. CODE §§901.502(2), 901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.

19	<p>Committing discreditable acts</p> <p>(3) violation of any of the provisions of Subchapter J or §901.458 of the Act (relating to Loss of Independence) applicable to a person certified or registered by the board</p>	<p>22 TEX. ADMIN. CODE §501.90(3);</p> <p>TEX. OCC. CODE §§901.502(5), 901.502(6) & 901.502(11)</p>	<p>Minor: \$0 to \$25,000 per violation.</p> <p>Moderate: \$25,000 to \$75,000 per violation.</p> <p>Major: \$75,000 to \$100,000 per violation.</p>
20	<p>Committing discreditable acts</p> <p>(4) final conviction of a felony or imposition of deferred adjudication or community supervision in connection with a criminal prosecution of a felony under the laws of any state or the United States</p>	<p>22 TEX. ADMIN. CODE §501.90(4);</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(10), & 901.502(11)</p> <p>TEX. OCC. CODE CHAP. 53</p>	<p>\$0 to \$100,000 per violation.</p>
21	<p>Committing discreditable acts</p> <p>(5) final conviction of any crime or imposition of deferred adjudication or community supervision in connection with a criminal prosecution, an element of which is dishonesty or fraud under the laws of any state or the United States; a criminal prosecution for a crime of moral turpitude; a criminal prosecution involving alcohol abuse or controlled</p>	<p>22 TEX. ADMIN. CODE §501.90(5) & §519.7;</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(10), & 901.502(11)</p>	<p>\$0 to \$100,000 per violation.</p>

	substances; or a criminal prosecution for a crime involving physical harm or the threat of physical harm		
22	<p>Committing discreditable acts</p> <p>(6) cancellation, revocation, suspension or refusal to renew authority to practice as a CPA or a public accountant by any other state for any cause other than failure to pay the appropriate registration fee in such other state</p>	<p>22 TEX. ADMIN. CODE §501.90(6);</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(8), 901.502(9), & 901.502(11)</p>	\$0 to \$100,000 per violation.
23	<p>Committing discreditable acts</p> <p>(7) suspension or revocation of or any consent decree concerning the right to practice before any state or federal regulatory or licensing body for a cause which in the opinion of the board warrants its action</p>	<p>22 TEX. ADMIN. CODE §501.90(7);</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(8), 901.502(9), & 901.502(11)</p>	<p>Minor: \$0 to \$25,000 per violation.</p> <p>Moderate: \$25,000 to \$75,000 per violation.</p> <p>Major: \$75,000 to \$100,000 per violation.</p>
24	<p>Committing discreditable acts</p> <p>(8) a conviction or final finding of unethical conduct by state or federal agencies or boards, local governments or commissions for violations of laws or</p>	<p>22 TEX. ADMIN. CODE §501.90(8);</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(8), 901.502(9), & 901.502(11)</p>	<p>Minor: \$0 to \$25,000 per violation.</p> <p>Moderate: \$25,000 to \$75,000 per violation.</p> <p>Major: \$75,000 to \$100,000 per violation.</p>

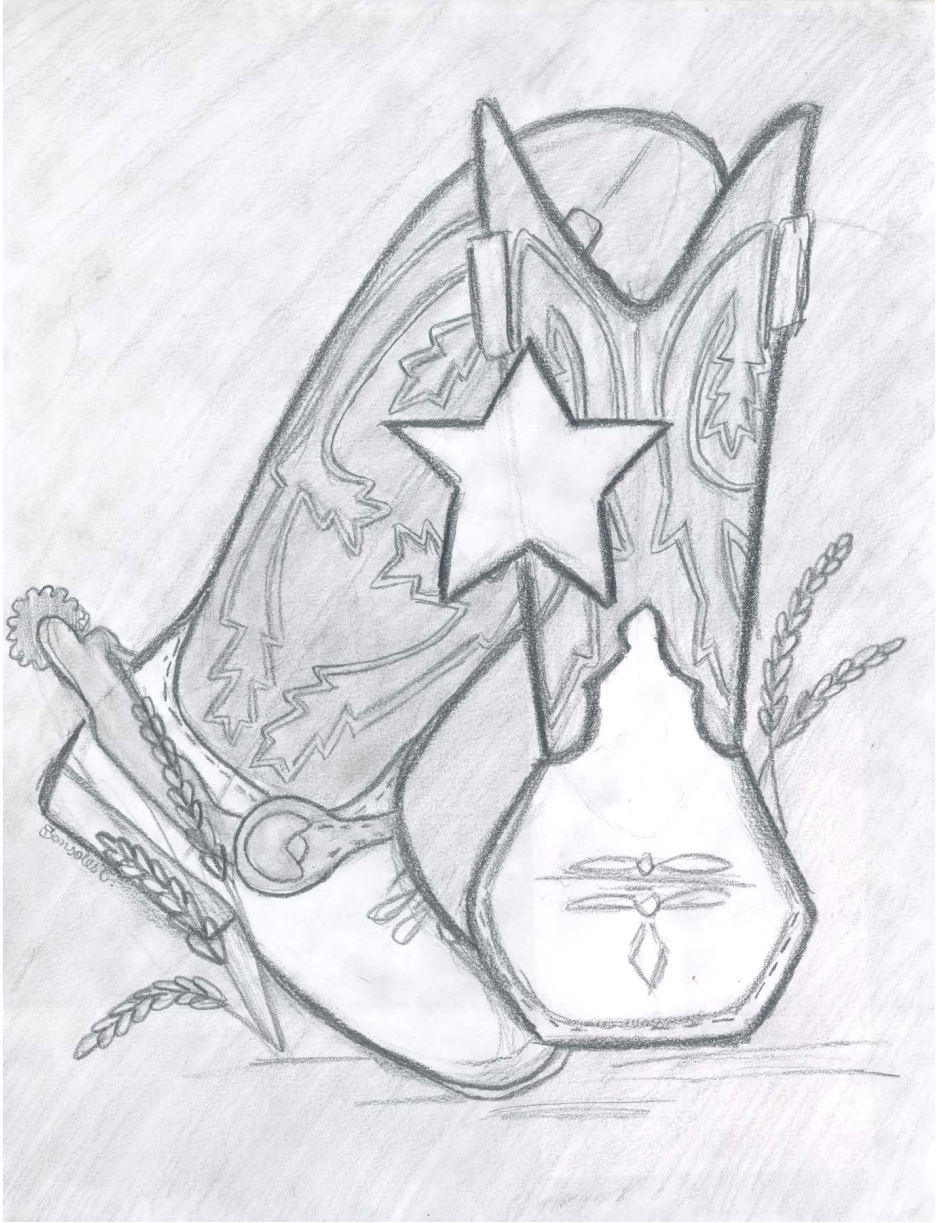
	rules on ethics by licensees that engage in activities regulated by those entities including but not limited to: the Public Company Accounting Oversight Board, Internal Revenue Service, U.S. Securities and Exchange Commission, U.S. Department of Labor, U.S. General Accounting Office, U.S. Housing and Urban Development, Texas State Auditor, <u>Texas Comptroller of Public Accounts</u> [Texas State Treasurer], Texas Securities Board, Texas Department of Insurance, and the Texas Secretary of State;		
25	Committing discreditable acts (9) knowingly participating in the preparation of a false or misleading financial statement or tax return	22 TEX. ADMIN. CODE §501.90(9); TEX. OCC. CODE §§901.502(2), 901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
26	Committing discreditable acts 10 fiscal dishonesty or breach of fiduciary responsibility of any type	22 TEX. ADMIN. CODE §501.90(10); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.

27	Committing discreditable acts (11) failure to comply with a final order of any state or federal court	22 TEX. ADMIN. CODE §501.90(11); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
28	Committing discreditable acts (12) repeated failure to respond to a client's inquiry within a reasonable time without good cause	22 TEX. ADMIN. CODE §501.90(12); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
29	Committing discreditable acts (13) intentionally misrepresenting facts or making a misleading or deceitful statement to a client, employer, the board, board staff or any person acting on behalf of the board	22 TEX. ADMIN. CODE §501.90(13); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
30	Committing discreditable acts (14) giving intentional false sworn testimony or perjury in court or in connection with discovery in a court proceeding or in any communication to the board or board staff, or any other federal or state regulatory or licensing body	22 TEX. ADMIN. CODE §501.90(14); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
31	Committing discreditable acts	22 TEX. ADMIN. CODE §501.90(15);	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation.

	(15) threats of bodily harm or retribution to a client	TEX. OCC. CODE §§901.502(6) & 901.502(11)	Major: \$75,000 to \$100,000 per violation.
32	Committing discreditable acts (16) public allegations of a lack of mental capacity of a client which cannot be supported in fact	22 TEX. ADMIN. CODE §501.90(15); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.
33	Committing discreditable acts (17) voluntarily disclosing information communicated to the person by an employer, past or present, or through the person's employment in connection with accounting services rendered to the employer, except: (A) by permission of the employer; (B) pursuant to the Government Code, Chapter 554 (commonly referred to as the "Whistle Blowers Act"); (C) pursuant to: (i) a court order signed by a judge; or (ii) a summons: (I) under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments, (II) the Securities Act	22 TEX. ADMIN. CODE §501.90(17); TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$25,000 per violation. Moderate: \$25,000 to \$75,000 per violation. Major: \$75,000 to \$100,000 per violation.

	<p>of 1933 (15 U.S.C. §77a et seq.) and its subsequent amendments, or</p> <p>(III) the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) and its subsequent amendments;</p> <p>(D) in an investigation or proceeding by the board;</p> <p>(E) in an ethical investigation conducted by a professional organization of CPAs;</p> <p>(F) in the course of a peer review under §901.159 of the Act (relating to Peer Review); or</p> <p>(G) any information that is required to be disclosed by the professional standards for reporting on the examination of a financial statement.</p>		
34	<p>Committing discreditable acts</p> <p>(18) breaching the terms of an agreed consent order entered by the board or violating any Board Order</p>	<p>22 TEX. ADMIN. CODE §501.90(18);</p> <p>TEX. OCC. CODE §§901.502(6), 901.502(11) & 901.502(12)</p>	<p>Minor: \$0 to \$25,000 per violation.</p> <p>Moderate: \$25,000 to \$75,000 per violation.</p> <p>Major: \$75,000 to \$100,000 per violation.</p>
35	<p>Failure to report reportable events</p>	<p>22 TEX. ADMIN. CODE §501.91</p> <p>TEX. OCC. CODE §§901.502(6) & 901.502(11)</p>	<p>Minor: \$0 to \$25,000 per violation.</p> <p>Moderate: \$25,000 to \$75,000 per violation.</p> <p>Major: \$75,000 to \$100,000 per violation.</p>

36	Filing a frivolous complaint	22 TEX. ADMIN. CODE §501.92 TEX. OCC. CODE §§901.502(6) & 901.502(11)	\$0 to \$10,000 per violation.
37	Failure to respond to Board communications	22 TEX. ADMIN. CODE §501.93 TEX. OCC. CODE §§901.502(6) & 901.502(11)	Minor: \$0 to \$1,000 per violation. Moderate: \$1,000 to \$50,000 per violation. Major: \$50,000 to \$100,000 per violation.
38	Failure to satisfy peer review requirements	22 TEX. ADMIN. CODE §527.4 TEX. OCC. CODE §§901.502(11) & 901.502(12)	Minor: \$0 to \$1,000 per violation. Moderate: \$1,000 to \$50,000 per violation. Major: \$50,000 to \$100,000 per violation.



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.

Brazos Valley Council of Governments

Workforce Solutions Brazos Valley Board Request for Quotes for Available Commercial Space to Lease in Caldwell, Texas

The Workforce Solutions Brazos Valley Board (WSBVB) will release a Request for Proposal (RFP) on May 23, 2022, for a contractor to provide quotes for the lease of available commercial space in Caldwell, Texas. The space will be used for the day-to-day operations of the workforce center in Caldwell, Texas. The lease for space RFP can be downloaded at <http://bvjobs.org/about-us/request-for-proposals/> or by request to Barbara Clemmons via email at bclemmons@bvcog.org.

The initial contract will be for five years, effective July 1, 2022. The resulting contract may be renewed an additional five years, in one-year increments, depending on the contractor's performance and availability of funds. The deadline for proposals will be 2:00 p.m. CST on June 14, 2022.

A Pre-Proposal Conference will be held through a telephone conference call on Tuesday, June 1, 2022, at 10:00 a.m. CST. The call-in number is (979) 595-2802. Proposers will have the opportunity to ask questions about the procurement during the proposer's conference call. Attendance on the pre-proposal conference call is not mandatory; however, it is strongly suggested that all potential proposers participate in the telephone conference. **If Proposers cannot attend the proposer's conference call on Tuesday, June 1, 2022, at 10:00 a.m. CST, they can submit their questions in writing concerning this RFP to Barbara Clemmons at bclemmons@bvcog.org no later than Friday, June 3, 2022, 5:00 p.m. CST. Answers to all questions received will be posted to www.bvjobs.org no later than the close of business on Tuesday, June 7, 2022, CST.**

Proposals in response to this RFP will be due no later than 2:00 p.m. CST, June 14, 2022. Hand-delivered Fed-Ex or UPS proposals shall be addressed to Workforce Solutions Brazos Valley, Caldwell, Texas Lease of Space Request for Proposal, Center for Regional Services, 3991 East 29th Street, Bryan, Texas 77802. Mailed proposals shall be addressed to Workforce Solutions Brazos Valley, Caldwell, Texas Lease of Space Request for Proposal, P.O. Box 4128, Bryan, Texas 77805. Proposals arriving at the Center for Regional Services after the due date and time will not be accepted, regardless of the postmarked date.

TRD-202201984
Vonda Morrison
Program Manager
Brazos Valley Council of Governments
Filed: May 23, 2022



Workforce Solutions Brazos Valley Public Notice for Request for Proposals for Child Care Services

The Workforce Solutions Brazos Valley Board (WSBVB) will release a Request for Proposal (RFP) on May 23, 2022, for a contractor to operate the Child Care Services Program. The contractor selected through this procurement will be required to provide the following services:

Child Care Client Services - to offer child care to eligible families and to improve the quality, availability and affordability of child care in the Brazos Valley.

Provider Management - to recruit eligible child care providers in all seven counties monthly to expand the availability of child care within the Brazos Valley workforce development area and to improve the quality of child care services provided.

Financial Management - to provide financial management services for Child Care Client Services and Operations, and Child Care Provider Management.

These services will be provided for the residents of the Brazos Valley Region which includes Brazos, Washington, Robertson, Burleson, Madison, Leon, and Grimes counties. Workforce Solutions Brazos Valley Board (WSBVB) will receive proposals from private and public organizations or individuals to provide management as an independent contractor for child care services in the seven counties in the Brazos Valley Region, and the initial contract will be effective October 1, 2022. The resulting contract may be renewed up to four times, in one-year increments, depending on the contractor's performance and availability of funds.

The RFP will be posted at <http://bvjobs.org/about-us/request-for-proposals/>. The contact person for this procurement is Barbara Clemmons. Difficulties downloading the RFP document shall be referred to Leslie Davis at leslie.cooks@bvcog.org or (979) 595-2801, ext. 2011.

A Pre-Proposal Conference will be held through a telephone conference call on Tuesday June 7, 2022, at 10:00 a.m. The call-in number is (979) 595-2802. Proposers will have the opportunity to ask questions about the procurement during the proposer's conference call. Attendance on the pre-proposal conference call is not mandatory; however, it is strongly suggested that all potential proposers participate in the telephone conference. **If Proposers cannot attend the proposer's conference call on Tuesday, June 7, 2022, at 10:00 a.m. CST, they can submit their questions in writing concerning this RFP to Barbara Clemmons at bclemmons@bvcog.org no later than Friday, June 10, 2022, 5:00 p.m. CST. Answers to all questions received will be posted to www.bvjobs.org no later than the close of business on Tuesday, June 14, 2022, CST.**

Proposals in response to this RFP will be due no later than 2:00 p.m. CST, July 11, 2022. Hand-delivered and Overnight/Express proposals shall be addressed to Workforce Solutions Brazos Valley, Child Care Services Request for Proposal, Center for Regional Services, 3991 East 29th Street, Bryan, Texas 77802. Mailed proposals shall be addressed to Workforce Solutions Brazos Valley, Child Care Services Request for Proposal, P.O. Box 4128, Bryan, Texas 77805. Proposals arriving at the Center for Regional Services after the due date and time will not be accepted, regardless of the post-marked date.

A proud partner of the American Job Center network.

Equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities

Deaf, hard of hearing or speech-impaired customers may contact:

Relay Texas (800) 735-2989 (TTY) and 711 Voice.

TRD-202201983

Vonda Morrison

Program Manager

Brazos Valley Council of Governments

Filed: May 23, 2022

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Comptroller of Public Accounts

**Certification of the Average Closing Price of Gas and Oil-
April 2022**

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period April 2022 is \$64.69 per barrel for the three-month period beginning on January 1, 2022, and ending March 31, 2022. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of April 2022, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period April 2022 is \$3.48 per mcf for the three-month period beginning on January 1, 2022, and ending March 31, 2022. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of April 2022, from a qualified low-producing well, is eligible for a 25% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of April 2022 is \$101.64 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of April 2022, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of April 2022 is \$6.70 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from gas produced during the month of April 2022, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

Issued in Austin, Texas, on May 19, 2022.

TRD-202201933

Jennifer Burleson

Director, Tax Policy Division

Comptroller of Public Accounts

Filed: May 19, 2022

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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 05/30/22 - 06/05/22 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/30/22 - 06/05/22 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

TRD-202202018

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 24, 2022

◆ ◆ ◆
Deep East Texas Council of Governments

**Notification of Public Posting of Proposed Method of
Distribution Hurricane Harvey Regional Mitigation Program -
Deep East Texas**

Deep East Texas Council of Governments & Economic Development
District

1405 Kurth Drive, Lufkin, Texas 75904

(936) 634-2247 Fax: (936) 639-2700

May 19, 2022

Notification of Public Posting of Proposed Method of Distribution Hurricane Harvey Regional Mitigation Program - Deep East Texas (Jasper, Newton, Polk, Sabine, San Augustine, San Jacinto & Tyler Counties)

To the Local Governments and Citizens of Deep East Texas,

DETCOG has completed the proposed Method of Distribution for the Deep East Texas Regional Mitigation Program (COG MOD). It can be viewed online at: www.detcog.gov/public-notice. You may also view the COG MOD at the DETCOG office at 1405 Kurth Drive, Lufkin, Texas 75904. You may also request a copy of it by sending an email to Bob.Bashaw@detcog.gov or by calling DETCOG at (936) 634-2247, extension 5353.

The COG MOD determines allocations and certain guidelines for \$161,542,000 in mitigation funding allocated to our region by the Texas General Land Office for the benefit of communities that were included in the Hurricane Harvey Presidential Disaster Declaration. It is important to note that this funding is specifically for mitigation activities. Mitigation activities are those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

We invite public comments on this proposed Method of Distribution. We have scheduled both an in-person public hearing and an online virtual public hearing on May 31, 2022. We will also receive written comments through June 2, 2022. See the attached Solicitation for Public Comment for information about the public hearings and the process for submitting written comments or questions.

19 de mayo de 2022

Publicación pública del método de distribución propuesto

Programa Regional de Mitigación del Huracán Harvey - Este profundo de Texas

(Condados de Jasper, Newton, Polk, Sabine, San Augustine, San Jacinto y Tyler)

A los Gobiernos Locales y Ciudadanos del Profundo Este de Texas,

DETCOG ha completado el Método de Distribución propuesto para el Programa Regional de Mitigación del Este Profundo de Texas (COG MOD). Se puede ver en línea en: www.detcog.gov/public-notice. También puede ver el COG MOD en la oficina de DETCOG en 1405 Kurth Drive, Lufkin, Texas 75904. También puede solicitar una copia enviando un correo electrónico a Bob.Bashaw@detcog.gov o llamando a DETCOG al (936) 634- 2247, extensión 5353.

El COG MOD determina asignaciones y ciertas pautas para \$161,542,000 en fondos de mitigación asignados a nuestra región por la Oficina General de Tierras de Texas para el beneficio de las comunidades que se incluyeron en la Declaración Presidencial de Desastre del Huracán Harvey. Es importante señalar que este financiamiento es específicamente para actividades de mitigación. Las actividades de mitigación son aquellas actividades que aumentan la resiliencia ante los desastres y reducen o eliminan el riesgo a largo plazo de pérdida de vidas, lesiones, daños y pérdidas de propiedad, sufrimiento y privaciones, al disminuir el impacto de futuros desastres.

Invitamos a los comentarios públicos sobre este método de distribución propuesto. Hemos programado una audiencia pública en persona y una audiencia pública virtual en línea para el 31 de mayo de 2022. También recibiremos comentarios por escrito hasta el 2 de junio de 2022. Consulte la Solicitud de comentarios públicos adjunta para obtener información sobre las audiencias públicas y el proceso. para enviar comentarios o preguntas por escrito.

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 mitigation activities related to risk reduction for hurricanes, tropical storms and depressions, and flooding, wind, and other hazards to develop disaster-resistant infrastructure; upgrading of water, sewer, solid waste, communications, energy, transportation, health, and medical, and other public infrastructure to address specific, identified risks; financing multi-use infrastructure; and green or natural mitigation infrastructure development. The funds are to be used in the most impacted and distressed areas resulting from Presidentially declared disasters related to Hurricane Harvey in 2017. The Preliminary MOD can be viewed at: www.detcog.gov/public-notice. Written and oral comments regarding the MOD will be taken at public hearings scheduled for the following dates, times, and locations:

Virtual Public Hearing: Tuesday, May 31, 2022, at 2:00 p.m.

Link to join meeting (for video and audio): <https://meet.goto.com/DETCOG-MEETING/mit> Optional dial-in numbers (for audio only): (Toll Free): (877) 309 2073

Or: (646) 749-3129

Access Code: 832-983-365

In Person Public Hearing: Tuesday, May 31, 2022, at 6:00 p.m. at the Tyler County Senior Citizens Center, 201 Veterans Way, Woodville, Texas 75979

Written comments must be received by DETCOG by 4:30 p.m. on Thursday, June 2, 2022:

By mail to: Attn: Bob Bashaw, DETCOG Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904

By email to: Bob.Bashaw@detcog.gov

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 or email Bob.Bashaw@detcog.gov 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 Este Profundo de Texas (DETCOG) está solicitando información sobre el Método de Distribución (MOD) de \$161,542,000.00 en fondos de Mitigación de Subsidios en Bloque para el Desarrollo Comunitario ("CDBG-MIT") para proporcionar asistencia financiera para los gastos necesarios para actividades de mitigación relacionadas con la reducción del riesgo de huracanes, tormentas tropicales y depresiones, inundaciones, vientos y otros peligros para desarrollar infraestructura resistente a los desastres; mejora de agua, alcantarillado, residuos sólidos, comunicaciones, energía, transporte, salud y médica, y otras infraestructuras públicas para abordar riesgos específicos identificados; financiación de infraestructura de usos múltiples; y desarrollo de infraestructura de mitigación verde o natural. Los fondos se utilizarán en las áreas más afectadas y afligidas como resultado de los desastres declarados por el presidente relacionados con el huracán Harvey en 2017. El MOD preliminar se puede ver en: www.detcog.gov/public-notice. Los comentarios escritos y orales sobre el MOD se tomarán en las audiencias públicas programadas para las siguientes fechas, horas y lugares:

Audiencia Pública Virtual: martes 31 de mayo de 2022, a las 2:00 p.m.

Enlace para unirse a la reunión (para video y audio): <https://meet.goto.com/DETCOG-MEETING/mit> Números de marcado opcionales (solo para audio): (Número gratuito): 1 (877) 309 2073 O: 1 (646) 749-3129 Código de acceso: 832-983-365 Audiencia

Pública Presencial: martes 31 de mayo de 2022, a las 6:00 p.m. en el Centro de Ciudadanos Mayores del Condado de Tyler, 201 Veterans Way, Woodville, Texas 75979

Los comentarios escritos deben ser recibidos por DETCOG antes de las 4:30 p.m. el jueves, 2 de junio de 2022:

Por correo postal a: Attn: Bob Bashaw, DETCOG Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904

Por correo electrónico a: Bob.Bashaw@detcog.gov

DETCOG proporcionará adaptaciones razonables para las personas que asisten a las funciones de DETCOG. Las solicitudes de personas que necesitan 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 o envíe un correo electrónico a Bob.Bashaw@detcog.gov para obtener ayuda. Para obtener información sobre esta publicación, llame al (936) 634-2247.

TRD-202202011

Lonnie Hunt

Executive Director

Deep East Texas Council of Governments

Filed: May 24, 2022

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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 **July 6, 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 **July 6, 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: AT&T Corp; DOCKET NUMBER: 2022-0167-PST-E; IDENTIFIER: RN104354832; LOCATION: Sweetwater, Nolan County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ Delivery Certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(2) COMPANY: Bexar County Hospital District; DOCKET NUMBER: 2022-0111-PST-E; IDENTIFIER: RN101750768; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: emergency generator facility; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; and 30 TAC §334.50(b)(1)(A) and (2)(B)(i)(I) and TWC, §26.3475(b) and (c)(1), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, and failing to provide release detection for the suction piping associated with the UST system; PENALTY: \$8,438; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Centennial Resource Production, LLC; DOCKET NUMBER: 2021-1291-PWS-E; IDENTIFIER: RN110897691; LOCATION: Pecos, Reeves County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(c)(3)(A), by failing to operate the facility under the direct supervision of a water works operator who holds a Class D or higher license; PENALTY: \$724;

ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(4) COMPANY: DEVGHAT BUSINESS LLC dba Country Food Mart; DOCKET NUMBER: 2022-0207-PST-E; IDENTIFIER: RN102271053; LOCATION: Willis, Montgomery County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; and 30 TAC §334.50(b)(1)(A) and (2)(A)(i)(III) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, and failing to test the line leak detectors at least once per year for performance and operational reliability; PENALTY: \$5,075; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Diamond H Services, Incorporated; DOCKET NUMBER: 2022-0105-WQ-E; IDENTIFIER: RN111375812; LOCATION: San Augustine, San Augustine County; TYPE OF FACILITY: operator; RULES VIOLATED: TWC, §11.081 and §11.121, by failing to obtain authorization prior to impounding, diverting, or using state water without a required permit; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: Duran, Luis A; DOCKET NUMBER: 2022-0138-OSI-E; IDENTIFIER: RN109267559; LOCATION: Breckenridge, Stephens County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §285.61(4), by failing to ensure that an authorization to construct has been issued prior to beginning construction of an on-site sewage facility; PENALTY: \$175; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2020-0061-AIR-E; IDENTIFIER: RN102212925; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petrochemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 115.722(c)(1), 116.715(a), and 122.143(4), Flexible Permit Numbers 3452, PSDTX302M2, and PAL6, Special Conditions Number 1, Federal Operating Permit Number O1553, General Terms and Conditions and Special Terms and Conditions Numbers 1 and 24, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions, and failing to limit highly reactive volatile organic compounds emissions to 1,200 pounds or less per one-hour block period; PENALTY: \$12,525; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,010; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Lindsey Construction, Incorporated; DOCKET NUMBER: 2022-0217-WQ-E; IDENTIFIER: RN111359246; LOCATION: Friendswood, Galveston County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: MULTI-COUNTY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-0180-PWS-E; IDENTIFIER: RN101428746; LOCATION: Gatesville, Coryell County; TYPE

OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Ashley Lemke, (512) 239-1118; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(10) COMPANY: PD ENGLAND LTD; DOCKET NUMBER: 2022-0218-WQ-E; IDENTIFIER: RN111384483; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Alyssa Loveday, (512) 239-5504; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: PINEY WOODS SANITATION, INCORPORATED; DOCKET NUMBER: 2022-0161-MSW-E; IDENTIFIER: RN111338794; LOCATION: Livingston, Polk County; TYPE OF FACILITY: route maintenance facility; RULE VIOLATED: 30 TAC §330.9(b)(3), by failing to obtain a registration for a municipal solid waste transfer station; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: Richard and Janice Investments LLC; DOCKET NUMBER: 2022-0194-WQ-E; IDENTIFIER: RN111379764; LOCATION: Gilmer, Upshur County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: SSS ABBASI INC dba Shopper Stop; DOCKET NUMBER: 2022-0224-PST-E; IDENTIFIER: RN102278603; LOCATION: Athens, Henderson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(14) COMPANY: Stonetown Walnut Creek, LLC; DOCKET NUMBER: 2021-1143-MWD-E; IDENTIFIER: RN102915691; LOCATION: Alvarado, Johnson County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0013868001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and (17) and §319.7(d), and TPDES Permit Number WQ0013868001, Monitoring and Reporting Requirements Number 1, by failing to timely submit effluent monitoring results at the intervals specified in the permit; PENALTY: \$23,713; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: TEXAS GIANT KIM'S, INCORPORATED dba Fast & Low; DOCKET NUMBER: 2022-0099-PST-E; IDENTIFIER: RN102938925; LOCATION: Texarkana, Bowie County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES

VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$3,563; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(16) COMPANY: THE ORCHARDS ON THE BRAZOS, LLC; DOCKET NUMBER: 2021-0753-PWS-E; IDENTIFIER: RN111113338; LOCATION: Cleburne, Somervell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 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 disinfectant residual of at least 0.2 milligrams per liter (mg/L) of free chlorine throughout the distribution system at all times; 30 TAC §290.46(f)(2) and (3)(A)(i)(III) and (ii)(III), by failing to maintain water works operations and maintenance records and make them readily available for review by the executive director (ED) upon request; 30 TAC §290.46(q)(1), by failing to issue a boil water notice to the customers of the facility within 24 hours of a low disinfectant residual using the prescribed format in 30 TAC §290.47(c); 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 §290.51(a)(6) and TWC, §5.702, by failing to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account Number 92130046 for Fiscal Year 2021; 30 TAC §290.106(c) and (e), by failing to collect and report the results of cyanide, metals, minerals, asbestos, and nitrite sampling to the ED for the January 1, 2020 - December 31, 2020, monitoring period; 30 TAC §290.107(c) and (e), by failing to collect and report the results of volatile organic chemical contaminants and synthetic organic chemical contaminants Group 5 sampling to the ED for the October 1, 2020 - December 31, 2020, monitoring period; 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 §290.110(e)(4)(A), and (f)(3), by failing to submit a Disinfection Level Quarterly Operating Report to the ED by the tenth day of the month following the end of each quarter for the fourth quarter of 2020; PENALTY: \$16,107; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202201971

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: May 20, 2022



Amended Notice of Public Meeting for an Air Quality Permit
(Amended to Clarify the Date of the Meeting): Proposed
Permit Number: 165848

APPLICATION. Exflur Research Corporation has applied to the Texas Commission on Environmental Quality (TCEQ) for issuance of Proposed Air Quality Permit Number 165848, which would authorize construction of the Exflur Research facility located at 1100 County Road 236, Florence, Williamson County, Texas 76527. This application was processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This application was submitted to the TCEQ on July 9, 2021. The proposed facility will emit the following contaminants: hydrogen fluorides, carbon monoxide, hazardous air pollutants, nitrogen

oxides, organic compounds, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, June 16, 2022 at 7:00 p.m.

Florence High School (Cafeteria)

401 FM 970

Florence, Texas 76527

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Austin regional office, and at the Eula Hunt Beck Florence Public Library, 207 East Main Street, Williamson County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas. Further information may also be obtained from Exflour Research Corporation by calling Dr. Thomas Bierschenk, PhD, Vice President at (512) 310-9044 or at Exflour Research Corporation, 2350 Double Creek Drive, Round Rock, Texas 78664.

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.

Notice Issuance Date: May 23, 2022

TRD-202201996

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Combined Public Meeting and Notice of Application and Preliminary Decision for an Air Quality Permit: Permit Number: 105710

APPLICATION AND PRELIMINARY DECISION. Corpus Christi Liquefaction, LLC, P.O. Box 162, Gregory, Texas 78359-0162, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to Air Quality Permit Number 105710, which would authorize a modification to operations at Corpus Christi Liquefaction located at 622 State Hwy 35, Gregory, San Patricio County, Texas 78359. This application was submitted to the TCEQ on April 20, 2021. The existing facility will emit the following contaminants: carbon monoxide, hydrogen sulfide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less, sulfur dioxide, and hazardous air pollutants.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations. The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Corpus Christi regional office, and at the Portland Chamber of Commerce, 1512 Wildcat Drive, Portland, San Patricio County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Corpus Christi Regional Office, 500 N. Shoreline Blvd., Suite 500, Corpus Christi, 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 local legislators. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting is not a contested case hearing. The TCEQ will consider all public comments in developing a final decision on the application. The public meeting will consist of two parts, an Informal Discussion Period and a Formal Comment Period. During the Informal Discussion Period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application. However, informal comments made during the Informal Discussion Period will not be considered by the TCEQ Commissioners before reaching a decision on the permit and no formal response will be made to the informal comments. During the Formal Comment Period, members of the public may state their formal comments into the official record. A written response to all formal comments will be prepared by the Executive Director and considered by the Commissioners before they reach a decision on the permit. A copy of the response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this application and who provides a mailing address.

The Public Meeting is to be held:

Thursday, June 30, 2022 at 7:00 p.m.

Portland Community Center

2000 Billy G Webb

Portland, Texas 78374

Persons with disabilities who need special accommodations at the public 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.

You may submit additional written public comments within 30 days of the date of newspaper publication of this notice in the manner set forth in the AGENCY CONTACTS AND INFORMATION paragraph below, or by the date of the public meeting, whichever is later. After the deadline for public comment, the executive director will consider the comments and prepare a response to all public comment. The response to comments, along with the executive director's decision on the application will be mailed to everyone who submitted public comments or is on a mailing list for this application.

OPPORTUNITY FOR A CONTESTED CASE HEARING. A contested case hearing is a legal proceeding similar to a civil trial in a state district court. A person who may be affected by emissions of air contaminants from the facility is entitled to request a hearing. A contested case hearing request must include the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number; (2) applicant's name and permit number; (3) the statement "I/we request a contested case hearing;" (4) a specific description of how you would be adversely affected by the application and air emissions from the facility in a way not common to the general public; (5) the location and distance of your property relative to the facility; (6) a description of how you use the property which may be impacted by the facility; and (7) a list of all disputed issues of fact that you submit during the comment period. If the request is made by a group or association, one or more members who have standing to request a hearing must be identified by name and physical address. The interests the group or association seeks to protect must also be identified. You may also submit your proposed adjustments to the application/permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing within 30 days following this notice to the Office of the Chief Clerk, at the address provided in the information section below.

A contested case hearing will only be granted based on disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decisions on the application. 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. Issues that are not submitted in public comments may not be considered during a hearing.

EXECUTIVE DIRECTOR ACTION. A timely hearing request has been received by the TCEQ. However, if all timely contested case hearing requests have been withdrawn and no additional comments are received, the executive director may issue final approval of the application. The response to comments, along with the executive director's decision on the application will be mailed to everyone who submitted public comments or is on a mailing list for this application, and will be posted electronically to the Commissioners' Integrated Database (CID). If all timely hearing requests are not withdrawn, the executive director will not issue final approval of the permit and will forward the application and requests to the Commissioners for their consideration at a scheduled commission meeting.

INFORMATION AVAILABLE ONLINE. When they become available, the executive director's response to comments and the final decision on this application will be accessible through the Commission's

Website at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application which is provided at the top of this notice. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=27.883055&lng=-97.269166&zoom=13&type=r>.

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

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Corpus Christi Liquefaction, LLC at the address stated above or by calling Ms. Jessica Muennink, Health Safety and Environmental Manager at (361) 977-1342.

Notice Issuance Date: May 16, 2022

TRD-202201992

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Enforcement Order

An agreed order was adopted regarding SATRAC, INC. dba Budget Rent A Car, Docket No. 2020-1218-PST-E on May 24, 2022 assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202202038

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 25, 2022



Notice of District Petition

Notice issued May 19, 2022

TCEQ Internal Control No. D-04192022-028; Cielo Ranch Land Partners, LLC (Petitioner), a Texas limited liability company, filed a petition for creation of Williamson County Municipal Utility District No. 45 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are five lienholders, Stallion Texas Real

Estate Fund, LLC, Stallion Texas Real Estate Fund II - REIT, LLC, Austerra Stable Income Fund, LP, Holland Family 2021 Trust, and Capstone Fund, LLC, on the property to be included in the proposed District and that all lienholders consent to the creation of the proposed District; (3) the proposed District will contain approximately 762.88 acres located within Williamson County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, and operate a waterworks, a sanitary sewer system, a drainage and storm system, park and recreation facilities, and road facilities for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain and operate additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$205,000,000 (\$150,000,000 for utilities, plus \$45,000,000 for roads, plus \$10,000,000 for recreational purposes).

INFORMATION SECTION

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

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

TRD-202201989

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: May 23, 2022



Notice of District Petition

Notice issued May 19, 2022

TCEQ Internal Control No. D-03172022-030; GRBK Edgewood, LLC, a Texas limited liability company (Petitioner), filed a petition for the creation of Ellis Ranch Municipal Utility District No. 2 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 498.45 acres located within Ellis County, Texas; and (3) the land within the proposed District is located partially within the extraterritorial jurisdiction of the City of Waxahachie (City), partially within the unincorporated area of Ellis County, and outside the corporate limits or extraterritorial jurisdiction of any other city or town. Additionally, information provided indicates that there are no lienholders on the property to be included in the proposed District. The petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$71,925,000 (\$51,875,000 for water, wastewater, and drainage plus \$20,050,000 for roads). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to proceed to the TCEQ for inclusion of their Property into the District.

INFORMATION SECTION

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

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an

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

TRD-202201995

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Notice of District Petition

Notice issued May 19, 2022

TCEQ Internal Control No. D-03172022-029; GRBK Edgewood, LLC, a Texas limited liability company (Petitioner), filed a petition for the creation of Ellis Ranch Municipal Utility District No. 3 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 447.152 acres located within Ellis County, Texas; and (3) the land within the proposed District is located partially within the extraterritorial jurisdiction of the City of Waxahachie (City), partially within the unincorporated area of Ellis County, and outside the corporate limits or extraterritorial jurisdiction of any other city or town. Additionally, information provided indicates that there are no lienholders on the property to be included in the proposed District. The petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$62,120,000 (\$44,070,000 for water, wastewater, and drainage plus \$18,050,000 for roads). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioner submitted a petition to the City to provide water and sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to proceed to the TCEQ for inclusion of their Property into the District.

INFORMATION SECTION

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

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

TRD-202201997

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Notice of District Petition

Notice issued May 19, 2022

TCEQ Internal Control No. D-03162022-025; CILB Southwest, L.P., a Texas limited partnership, (Petitioner) filed a petition for creation of Fort Bend County Municipal Utility District No. 256 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 419.554 acres located within Fort Bend County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of waters; and (4) purchase, construct, acquire, improve, maintain and operate such additional facilities, systems, plants, and enterprises, including roads, and park and recreational facilities as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$75,335,000.

INFORMATION SECTION

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

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

(512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202201999

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Notice of Hearing on Green Valley Special Utility District:
SOAH Docket No. 582-22-2394; TCEQ Docket No.
2022-0091-MWD; Permit No. WQ0015917001

APPLICATION.

Green Valley Special Utility District, P.O. Box 99, Marion, Texas 78124, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015917001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. TCEQ received this application on August 31, 2020.

The facility will be located at 4060 Stapper Road, Saint Hedwig, in Bexar County, Texas 78152. The treated effluent will be discharged to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The unclassified receiving water use is limited aquatic life use for Womans Hollow Creek. The designated uses for Segment No. 1902 are primary contact recreation and high aquatic life use. In accordance with 30 Texas Administrative Code (TAC), Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), 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. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afc468bbddd360f8168250f&marker=-98.1904%2C29.4705&level=12>. For the exact location, refer to the application.

The TCEQ Executive Director has prepared a draft permit which, 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 St. Hedwig City Hall, 13065 Farm-to-Market Road 1346, St. Hedwig, Texas.

CONTESTED CASE HEARING.

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

10:00 a.m. - July 6, 2022

To join the Zoom meeting via computer:

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

Meeting ID: 161 881 6252

Password: 9AuZk9

or

To join the Zoom meeting via telephone:

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

Meeting ID: 161 881 6252

Password: 424711

Visit the SOAH website for registration at: <http://www.soah.texas.gov/>

or call SOAH at (512) 475-4993.

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be similar to a civil trial in state district court. The hearing will address the disputed issues of fact identified in the TCEQ order concerning this application issued on February 28, 2022. In addition to these issues, the judge may consider additional issues if certain factors are met.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 26, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. The hearing will be held unless all timely hearing requests have been withdrawn or denied.

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

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

INFORMATION.

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

Further information may also be obtained from Green Valley Special Utility District at the address stated above or by calling Mr. Pat Allen at (830) 914-2330.

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

Issued: May 18, 2022

TRD-202201990

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 6, 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 July 6, 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: AIN UNITED INC dba SO # 10; DOCKET NUMBER: 2021-0798-PST-E; TCEQ ID NUMBER: RN101383289; LOCATION: 1923 Main Street, Danbury, Brazoria County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(B), by failing to monitor the UST for releases in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for tanks installed on or after January 1, 2009; PENALTY: \$4,500; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Billy Kizer; DOCKET NUMBER: 2020-0083-MSW-E; TCEQ ID NUMBERS: RN110583598 and RN110880457; LOCATIONS: County Road 2620, approximately 300 feet south of the intersection of County Road 2620 and Farm-to-Market Road 1396, Ivanhoe, Fannin County; and 297 County Road 2620, Ivanhoe, Fannin County; TYPE OF FACILITY: scrapyard facility located on two adjacent properties; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the collection, storage, transportation, processing, or disposal of municipal solid waste; PENALTY: \$20,850; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Dallas-Fort Worth

Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: Fatima Ladhani and Amirali Ladhani dba Rick's Drive Inn; DOCKET NUMBER: 2021-0513-PST-E; TCEQ ID NUMBER: RN101907780; LOCATION: 8157 State Highway 281, Leming, Atascosa County; TYPE OF FACILITY: underground storage tank (UST) system; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(d)(4)(A)(ii), by failing to operate the automatic tank gauging equipment in a manner capable of collection data for inventory control purposes and conducting automatic tests for substance loss; and TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$6,750; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: Heidi Fensterbush dba Country View Mobile Home Park and Michael D. Fensterbush dba Country View Mobile Home Park; DOCKET NUMBER: 2021-0826-PWS-E; TCEQ ID NUMBER: RN101278190; LOCATION: 7506 North County Road 1540, Unit 23, Shallowater, Lubbock County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code, §341.0315(c) and 30 TAC §290.45(b)(1)(E)(i), by failing to provide a well capacity of 1.0 gallon per minute per connection; and TWC, §5.702 and 30 TAC §290.51(a)(6), by failing to pay annual Public Health Service fees, and/or any associated late fees, for TCEQ Financial Administration Account Number 91520247 for Fiscal Year 2021; PENALTY: \$462; STAFF ATTORNEY: Megan Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(5) COMPANY: Josh Commiato dba Lakeside Water; DOCKET NUMBER: 2021-0129-PWS-E; TCEQ ID NUMBER: RN103778247; LOCATION: 301 Rayburn Lane near Zavalla, Angelina County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(c)(1) and §290.111(a)(2), by failing to provide a minimum treatment consisting of coagulation with direct filtration and adequate disinfection for groundwater under the influence of surface water (GUI); and 30 TAC §290.110(e)(2) and (6), and §290.111(h), by failing to submit Surface Water Monthly Operating Reports for systems that use GUI; PENALTY: \$9,124; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: KOIES, INC. dba A&M Food Mart; DOCKET NUMBER: 2019-0360-PST-E; TCEQ ID NUMBER: RN102282399; LOCATION: 2400 Brook Avenue, Wichita Falls, Wichita County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for pressurized piping associated with the UST system; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator - Class A, B, and C - for the facility; PENALTY: \$4,174; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202201958

Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: May 20, 2022

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

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 6, 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 each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 6, 2022**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: ALIAHSAN NADIA ENTERPRISES, INC. dba Diadem Food Mart; DOCKET NUMBER: 2021-1180-PST-E; TCEQ ID NUMBER: RN102014404; LOCATION: 3911 Diadem Lane near Kirby, Bexar County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A) and §334.54(c)(1), by failing to monitor a temporarily out-of-service UST system for releases; 30 TAC §334.54(e)(5), by failing to meet financial assurance requirements to properly temporarily remove the UST system from service; 30 TAC §334.605(a), by failing to re-train the certified Class A and Class B operator within three years of the last training date; and 30 TAC §334.7(d)(1)(B) and (3), by failing to provide an amended registration for any change or additional information to the agency regarding the UST system within 30 days from the date of the occurrence of the change or addition; PENALTY: \$8,750; STAFF ATTORNEY: Megan Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: San Antonio Re-

gional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: ASIF ENTERPRISES, LLC dba Quick Stop; DOCKET NUMBER: 2020-0569-PST-E; TCEQ ID NUMBER: RN101913390; LOCATION: 124 West Kingsbury Street, Seguin, Guadalupe County; TYPE OF FACILITY: out-of-service underground storage tank (UST) system; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage cause by accidental releases arising from the operation of petroleum USTs; TWC, §26.3475(a), (c)(1), and (d), and 30 TAC §334.48(f), 334.49(a)(2), 334.50(b)(1)(A) and (2), and 334.54(b)(3) and (c)(1), by failing to maintain the corrosion protection system in a manner that will ensure all the underground metal components of the out-of-service UST system will be continuously protected from corrosion; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A) and (2), and §334.54(c)(1), by failing to monitor the out-of-service USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2) and §334.54(c)(1), by failing to provide release detection for the pressurized piping associated with the out-of-service UST system; TWC, §26.3475(c)(2) and 30 TAC §334.51(b)(2)(C), by failing to equip each tank with overflow prevention equipment; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator - Class A, B, and C - for the facility; PENALTY: \$11,430; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Inland Recycling La Grange LC; DOCKET NUMBER: 2020-0750-MLM-E; TCEQ ID NUMBER: RN105003388; LOCATION: 751 Hatterman Road, La Grange, Fayette County; TYPE OF FACILITY: recycling and glycerin refining site; RULES VIOLATED: 30 TAC §335.9(a)(1), by failing to keep records of all industrial solid waste (ISW) activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal; 30 TAC §335.6(h) and §335.24, by failing to submit a written notice to the TCEQ which includes the types of ISW or municipal hazardous waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity 90 days prior to engaging in such activities; 30 TAC §335.62 and 40 Code of Federal Regulations (CFR) §262.11(a), by failing to conduct hazardous waste determinations and waste classifications; TWC, §26.121, 30 TAC §281.25(a)(4), and 40 CFR §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; 30 TAC §335.4, by causing, suffering, allowing, or permitting the unauthorized disposal of ISW; Texas Health and Safety Code, §382.0518(a) and §382.085(b), and 30 TAC §116.110(a), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; 30 TAC §327.3(b), by failing to notify the TCEQ as soon as possible but no later than 24 hours after the discovery of a spill or discharge; 30 TAC §327.5 and §350.2(b), by failing to immediately abate and contain a discharge or spill; 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System General Permit Number TXR05EJ17, Part III, Section A, by failing to prepare and implement a Stormwater Pollution Prevention Plan; 30 TAC §324.6 and 40 CFR §279.22(c)(1), by failing to mark or clearly label used oil storage containers with the words "Used Oil"; and 30 TAC §324.15 and 40 CFR §279.22(d), by failing to clean up and manage properly used oil; PENALTY: \$137,805; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, (512) 339-2929.

(4) COMPANY: Rose Bailey; DOCKET NUMBER: 2019-0346-MSW-E; TCEQ ID NUMBER: RN105843106; LOCATION: 604 Bristow Road near San Angelo, Tom Green County; TYPE OF FACILITY: real property; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of municipal solid waste; PENALTY: \$5,249; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(5) COMPANY: Uriel Chavira; DOCKET NUMBER: 2020-1343-WQ-E; TCEQ ID NUMBER: RN100810639; LOCATION: 7440 Doniphan Drive, Canutillo, El Paso County; TYPE OF FACILITY: bus terminal and fleet maintenance facility; RULES VIOLATED: 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR05EM23, Part III, Section A.1, by failing to prepare and implement a Stormwater Pollution Prevention Plan; and 30 TAC §305.125(1) and TPDES General Permit Number TXR05EM23, Part III, Section D.1(c), by failing to maintain a rain gauge on-site to determine when a qualifying storm event occurs, and monitor a minimum of once per week, and once per day during storm events; PENALTY: \$2,100; STAFF ATTORNEY: Lora Naismith, Litigation, MC 175, (512) 239-3321; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

TRD-202201960
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: May 20, 2022

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Notice of Water Quality Application

The following notice was issued on May 16, 2022

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 NOTICE BEING PUBLISHED IN THE *TEXAS REGISTER*.

INFORMATION SECTION

City of Pflugerville has applied for a minor amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0011845005 to increase the Interim I phase flow from 2,000,000 gallons per day (GPD) to 6,000,000 GPD, and to remove the Interim II phase in the existing permit. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 15,750,000 GPD. The facility will be located on Gregg Lane, 5,709 feet west of Farm-to-Market Road 973 and 3,703 feet east of Fuchs Grove Road, in Travis, County, Texas 78653.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. General information about the TCEQ can be found at our website at www.TCEQ.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-202201994
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: May 23, 2022

Notice of Water Quality Application

The following notice was issued on May 24, 2022.

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 NOTICE BEING PUBLISHED IN THE *TEXAS REGISTER*.

INFORMATION SECTION

The Texas Commission on Environmental Quality has initiated a minor amendment of the Texas Pollutant Discharge Elimination System Permit No. WQ0010338001 issued to City of Atlanta, to authorize a correction to typographical errors in the daily average, daily maximum, and single grab effluent limits for total zinc in the existing permit. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located approximately 440 feet east of the intersection of State Highway 43 and State Highway 77 in Cass County, Texas 75551.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. General information about the TCEQ can be found at our website at www.TCEQ.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-202202028

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 25, 2022



Notice of Water Rights Application

Notice Issued May 18, 2022

APPLICATION NO. 13760; Zimmerman Living Trust (Applicant), 2599 Gonzales County Road, Shiner, Texas 77984, has applied for a Water Use Permit to authorize the use of the bed and banks of an exempt reservoir on an unnamed tributary of Rocky Creek, tributary of Rocky Creek, tributary of the Lavaca River, Lavaca River Basin to convey not to exceed 358 acre-feet of groundwater per year from the Gulf Coast Aquifer for subsequent diversion and use for industrial and mining purposes in Lavaca County. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on April 7, 2021. Additional information and fees were received on May 11, 2021. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on May 21, 2021.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions, including, but not limited to, the installation of measurement devices. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at

www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202201993

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2022



Texas Ethics Commission

List of Late Filers

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

Deadline: Unexpended Contributions Report due January 18, 2022 for Candidates

Travis B. Bryan III, 314 E. Brookside Dr., Bryan, Texas 77801

Christopher A. Cox, 6088 Old Decatur Road, Alvord, Texas 76225

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

Lucio A. Del Toro, P.O. Box 787, Round Rock, Texas 78680

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

Alec A. Johnson, 319 Lloyd St., Nacogdoches, Texas 75965

Charles R. Johnson Jr., 815 Walker St. #1047, Houston, Texas 77002

Carmen Y. Kelsey, P.O. Box 2537, Universal City, Texas 78148

Marc M. Meyer, 525 Woodland Square Blvd. Ste. 250, Conroe, Texas 77384

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

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

Lakesha Smith, 4108 SW Green Oaks Blvd., P.O. Box 174094, Arlington, Texas 76003

Paul K. Stafford, P.O. Box 710404, Dallas, Texas 75371

Austin M. Talley, 5401 S FM 1626 Ste. 170-240, Kyle, Texas 78640

Christopher B. Watt, 1504 Blair St., Houston, Texas 77008

Ashton P. Woods, 8419 Hearth Dr. Apt 38, Houston, Texas 77054

Sherry Ann Williams, P.O. Box 407, Sour Lake, Texas 77659

Deadline: 8 Day Pre-Election Report due October 26, 2020 for Candidates

Marc M. Meyer, 525 Woodland Square Blvd. Ste. 250, Conroe, Texas 77384

TRD-202201932

Anne Temple Peters

Executive Director

Texas Ethics Commission

Filed: May 19, 2022



List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing

a late report, in reference to the specified filing deadline. If you have any questions, you may contact Scarlett Scalzo at (512) 463-5800.

Deadline: 30 Day Pre-election Report due January 31, 2022, for Candidates

LaDale A. Buggs, 2425 N. Central Expressway Ste. 700, Richardson, Texas 75080

Cameron A. Campbell, 9950 Westpark Dr., Houston, Texas 77063

Rodrigo Carreon, 1122 Avenue C, Fresno, Texas 77545

Mike Hendrix, 1001 Edgecliff Terrace, Austin, Texas 78704

Weston Martinez, 14546 Brook Hollow Ste. 312G, San Antonio, Texas 78232

Ajua Yvette Mason, 3620 South Cooper Street #120, Arlington, Texas 76015

Cary G. Moon, 5016 Exposition Way, Fort Worth, Texas 76244

Chad E. Prather, P.O. Box 151013, Arlington, Texas 76016

Ronald E. Reynolds, 6140 Hwy. 6 South, Ste. 233, Missouri City, Texas 77459

Aaron M. Sorrells, P.O. Box 161009, Ft. Worth, Texas 76161

Barbara Jean Stalder, 11200 Fuqua Suite 100 #158, Houston, Texas 77089

Joshua J. Tarbay, 200 S. Oakridge Dr. Ste. 101 #137, Hudson Oaks, Texas 76087

Alejandro Torres, 1910 West Acadia, Harlingen, Texas 78552

Deadline: 8 Day Pre-election Report due February 22, 2022, for Candidates

LaDale A. Buggs, 2425 N. Central Expressway Ste. 700, Richardson, Texas 75080

Cameron A. Campbell, 9950 Westpark Dr., Houston, Texas 77063

Rodrigo Carreon, 1122 Avenue C, Fresno, Texas 77545

Christian V. Hayes, 3801 Turtlecreek Dr., Port Arthur, Texas 77642

Mike Hendrix, 1001 Edgecliff Terrace, Austin, Texas 78704

Allan E. Meagher, 915 Colony Ridge Ct., Irving, Texas 75061

Uduakobong Nkanga, 501 E. Oates P.O. Box #494812, Garland, Texas 75049 (

Victor Perez, 722 King Treasure St., Alamo, Texas 78516

Aaron M. Sorrells, P.O. Box 161009, Ft. Worth, Texas 76161

Joshua J. Tarbay, 200 S. Oakridge Dr. Ste. 101 #137, Hudson Oaks, Texas 76087

Alejandro Torres, 1910 West Acadia, Harlingen, Texas 78552

TRD-202201982

Anne Temple Peters

Executive Director

Texas Ethics Commission

Filed: May 23, 2022



General Land Office

Notice of Extension of Conditional Certification Status

City of Galveston Dune Protection and Beach Access Plan

The GLO is extending the conditional certification of the City of Galveston's Beach Access and Dune Protection Plan (Plan), as designated in 31 Texas Administrative Code §15.36(d). The City has informally reported progress on beach access compliance to the GLO on a regular basis while its Plan has been conditionally certified. The GLO is requiring the City to achieve full compliance with the City's Beach Access Plan by December 31, 2022.

The City is not currently in compliance with certain beach access requirements under its existing Beach Access and Dune Protection Plan. The City must come into compliance with its Plan and make future amendments to its Plan as necessary to reflect any substantive changes needed to achieve compliance with state law. If the City does not come into compliance, the GLO may withdraw certification of a portion of the Plan or the entire Plan in accordance with 31 TAC §15.10 and §15.21. If the GLO withdraws certification of a portion of or of the entire Plan, the City may lose the ability to collect the increased amount of the Beach User Fee (BUF) it is currently collecting, may completely lose the authority to collect a BUF, may lose the authority to issue permits or certificates authorizing construction, or the certification of some other portion of its Plan may be withdrawn.

Since the previous extension of the conditional certification of its Plan, the City has continued to put forth significant effort to restore and enhance the public's ability to access and use the public beach. During the past six months, the noncompliance issues at access point (AP) 9 - Pocket Park No. 2, AP 13 - Pocket Park No. 3, and AP 20 - Indian Beach have been resolved.

The City has provided information demonstrating that the construction of the off-beach parking area and dune walkover at AP 9 - Pocket Park No. 2 is complete. There are 265 parking spaces available in the off-beach parking lot, 63 parking spaces in AP 8 - Beachside Village and 24 spaces in AP 15A - Pirates Beach Subdivision. In total, 352 parking spaces, as required by the Plan, are available in these three locations. Parking at adjacent access points was approved by the GLO because no alternatives exist at AP 9 to site parking in the off-beach parking lot. A future Plan amendment will be required to incorporate the final parking plan.

The City has relocated the bollards at AP 13 - Pocket Park No. 3 farther east to expand the size of the on-beach parking area while the required off-beach parking area and pedestrian pathway to the beach are being constructed. The City has installed conspicuous signage identifying the parking areas and access pathways at AP 20 - Indian Beach. In addition, the City has provided verification that the approved parking plans for AP 20 - Indian Beach and AP 23 - Dunes of West Beach have been implemented and that the parking shortfalls at these access points have been resolved.

The City failed to meet the deadline to complete the installation of beach access signage at AP 15A - Pirates Beach Subdivision, AP 15B - Palm Beach Subdivision, and AP 15C - Pirates Beach West Subdivision by December 30, 2021, due to material shortages and a diversion of resources. The City is required to either complete the installation of beach access signage or restore vehicular access to the beach at these access points by September 1, 2022. The beach must remain open to vehicular traffic until the access point comes into compliance with the signage requirements.

As required, the City has provided the GLO with a plan to restore pedestrian pathways to the beach at AP 23 - The Dunes of West Beach, and AP 24 - Sandhill Shores. The City has provided verification that one pedestrian pathway to the beach has been constructed and is accessible to the public at AP 23 - the Dunes of West Beach. The other required pedestrian pathways to the beach at AP 23 - The Dunes of West Beach and AP 24 - Sandhill Shores must be constructed and ac-

cessible to the public and conspicuous signage identifying the access points must be installed by September 1, 2022. If the September 2022 deadline is not met, the City will be required to restore vehicular access to the beach by November 1, 2022. The beach at each access point must remain open to vehicular traffic until the access point comes into compliance with the pedestrian access requirements.

The following access points have a lack of conspicuous signage identifying parking areas and access points and do not have the adequate amount of public beach access parking: AP 12 - Bermuda Beach and AP 27 - Sea Isle Parking Area. The City provided the GLO with a plan to resolve the shortfall in the required amount of parking for AP 12 - Bermuda Beach by expanding the on-beach parking area to a total width of 564.2 linear feet to accommodate the 87 parking spaces missing in the off-beach parking area. The City must complete the expansion of the on-beach parking area and the installation of conspicuous signage identifying the access points and parking areas or restore vehicular access to the beach by June 1, 2022. The beach must remain open to vehicular traffic until the access point comes into compliance with the parking requirements. A future Plan amendment will be required to incorporate the changes to the final parking plan.

The City is required to resolve the shortfall in the required amount of parking AP 27 - Sea Isle Parking Area by expanding the off-beach parking area to include at least 88 parking spaces, as required in the City's Plan. The City must complete the expansion of the parking area to accommodate 88 parking spaces and the installation of conspicuous signage identifying the parking areas and access point or restore vehicular access to the beach by June 15, 2022. The beach must remain open to vehicular traffic until the access point comes into compliance with the parking requirements.

The conditional certification status of the City's Plan will remain until the City is in compliance with all of its Plan's beach access requirements.

TRD-202201957

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: May 20, 2022

Texas Health and Human Services Commission

Public Notice - Specialized Add-on Services Waiver

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to renew the Specialized Add-on Services waiver authorized under §1915(b)(4) of the Social Security Act. CMS has approved the waiver application through November 30, 2022. The proposed effective date for the renewal is December 1, 2022. Once approved the renewal will be effective for another five-year period until November 30, 2027.

Habilitation Coordination is a service that assists an eligible nursing facility resident who has chosen to remain in the facility to access appropriate specialized services necessary for the resident to achieve quality of life and a level of community participation acceptable to the resident (and legally authorized representative on the resident's behalf). The habilitation coordinator assists the resident in coordinating all specialized services and provides recommendations related to the services the resident will receive in the community. If the resident decides to leave the nursing facility, a service coordinator is assigned to assist the resident with transitioning into the community.

Habilitation coordination is provided by Local Intellectual and Developmental Disability Authorities (LIDDAs). There is one LIDDA for each service (contract) area for a total of 39 LIDDAs in the state.

Preadmission Screening and Resident Review (PASRR) is a process to identify individuals with a mental illness (MI), an intellectual disability (ID), or a developmental disability (DD) who choose admission into a Medicaid-certified nursing facility (NF) or who are residing in a NF to ensure the appropriateness of NF admission. PASRR is also intended to ensure that individuals with MI, ID, or DD are receiving specialized services to meet their overall physical, mental, and psychosocial needs. This renewal requests to continue a PASRR service under the array of habilitative specialized services, called habilitation coordination, for which the choice of providers is limited to the LIDDA.

This renewal makes the following changes:

1. Updated the state contact phone number, email address and fax number.
2. Updated tribal and public notice dates.
3. Updated the approximate number of individuals eligible for Habilitation Specialized Services to approximately 3,700 individuals.
4. Clarified in the definition of habilitation coordination the following:
 - a. that assistance is for an eligible nursing facility resident,
 - b. preferences are assessed,
 - c. includes coordination with the nursing facility to assist the resident in accessing medical, social, educational or other appropriate services and supports that help the resident achieve quality of life acceptable to the resident and legally authorized representative, and;
 - d. includes providing information about the range of community living services, supports and alternatives; identifying the services and supports the resident will need to live in the community.
5. Clarified the qualifications of the service provider delivering habilitation coordination includes at least one year of experience working directly with individuals with intellectual or other developmental disabilities to align with existing policy.
6. Removed outdated names of the units at HHSC, as appropriate, that perform specific functions and replaced them with HHSC.
7. Clarified that HHSC runs a report to review whether a habilitation coordinator was assigned within two business days instead of 30 days of the PASRR Evaluation being completed.
8. Removed information about the IT system Client Assignment and Registration (CARE) and replaced it with the HHSC Data System.
9. Deleted language that stated the LIDDA performs these activities through general revenue funding and are able to manage the capacity.
10. Clarified that the LIDDA contract requires the LIDDA to assign a habilitation coordinator within two business days of the PASRR evaluation being completed and deleted the reference to within 30 days.
11. Clarified that HHSC conducts reviews of LIDDAs to determine if the LIDDA is in compliance with state rules governing the program. HHSC also clarified that the LIDDA may be required to submit a corrective action plan. The reference to 90 percent compliance was removed.
12. Clarified that, for the HHSC compliance review, HHSC may impose sanctions and remedies in accordance with the LIDDA's contract.
13. In Part III Quality, deleted information about the Quality Service Reviews and updated the section with information about the HHSC contract monitoring reviews of LIDDAs, to include information about

the sample. HHSC clarified that a representative sample of PASRR positive individuals is reviewed to ensure a Habilitation Coordinator has been assigned and this service is being provided as selected by the individual or legally authorized representative. HHSC also reviews whether the service is provided as authorized, and violations may be documented as findings and may require a CAP.

14. In Part III Quality, clarified the role of the PASRR Authority reviews with the CAPs and deleted language about the QSR process.

15. In the Part III section B, "Coordination and Continuity of Care Standards" section, removed the statement, "Additionally, the individual will already have relationships established with the community providers of specialized services, and this will assist with continuity of care when the individual leaves the facility."

16. Clarified in Part IV section B that the state requires the LIDDA to provide meaningful access to its programs, services, and activities and ensure adequate communication through language assistance services for individuals with limited English proficiency, sensory impairments, and speech impairments.

17. Updated the five-year waiver expenditure projections for projected pre-waiver cost and projected waiver cost as well as the five-year renewal period to 12/01/22 through 11/30/2027.

To obtain a free copy of the proposed waiver renewal request, ask questions, obtain additional information, or submit comments about the renewal, please contact Basundhara Raychaudhuri by U.S. mail, telephone, fax, or email at the addresses below.

Comments about the proposed waiver renewal request must be submitted to HHSC by July 5, 2022.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Basundhara Raychaudhuri, Waiver Coordinator, Policy Development Support

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Basundhara Raychaudhuri, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202202032

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: May 25, 2022



Public Notice - Texas State Plan Amendment Effective June 1, 2022

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendments are effective June 1, 2022.

The purpose of the amendments is to update the State Plan to include Collaborative Care Model (CoCM) services, as directed by Senate Bill 672, 87th Legislature, Regular Session, 2021. The legislation directed HHSC to provide medical assistance reimbursement to a treating health care provider who participates in Medicaid for the provision to a child or adult medical assistance recipient of behavioral health services that are classified by a Current Procedural Terminology code as collaborative care management services.

A corresponding amendment will also update the reimbursement methodology and/or the fee schedules in the current state plan by adjusting fees, rates, or charges for these services. The public notice of intent to submit a state plan amendment for the rates and updates to the fee schedules was published in the April 29, 2022, issue of the *Texas Register* (47 TexReg 2600). The notice may be accessed at <https://www.sos.state.tx.us/texreg/pdf/backview/0429/0429is.pdf>.

Copy of Proposed Amendment - Interested parties may obtain additional information and/or a free copy of the proposed amendments by contacting Shae James, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of Texas Department of Aging and Disability Services).

Written Comments - Written comments about the proposed amendment 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: Medical Benefits Office of Policy

Mail Code H-310 P.O. Box 149030

Austin, Texas 78756

Overnight Mail, special Deliver mail, or hand delivery

Texas Health and Human Services Commission

Attention: Medical Benefits Office of Policy

John H. Winters Building

Mail Code H-310

701 W. 51st St.

Austin, Texas 78751

Fax

Attention: Office of Policy at (512) 730-7474

Email

MedicaidBenefitRequest@hhsc.state.tx.us

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

TRD-202201975

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: May 20, 2022

◆ ◆ ◆
Department of State Health Services

Correction of Error

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this Correction of Error is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 3, 2022, issue of the Texas Register.)

The Department of State Health Services (department) published the annual Schedules of Controlled Substances in the March 18, 2022, issue of the *Texas Register* (47 TexReg 1512). Due to an error by the department, the spelling of the substance " β -Phenyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide)" was incorrect in the schedules. The Schedules are being republished to correct the error.

GRAPHIC

TRD-202201931
Cynthia Hernandez
General Counsel
Department of State Health Services
Filed: May 18, 2022

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application to do business in Texas for AmFed Advantage Insurance Company, a foreign fire and/or casualty company. The home office is in Ridgeland, Mississippi.

Application to do business in Texas for AmFed National Insurance Company, a foreign fire and/or casualty company. The home office is in Ridgeland, Mississippi.

Application to do business in Texas for AmFed Casualty Insurance Company, a foreign fire and/or casualty company. The home office is in Ridgeland, Mississippi.

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

TRD-202202031
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: May 25, 2022

◆ ◆ ◆
Texas Lottery Commission

Scratch Ticket Game Number 2403 "LUCKY 3"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2403 is "LUCKY 3". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2403 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2403.

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

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

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 04, 05, 06, 07, 08, 09, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 3 SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$100, \$500, \$1,000 and \$30,000.

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

Figure 1: GAME NO. 2403 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
3 SYMBOL	WIN\$

\$2.00	TWO\$
\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$100	ONHN
\$500	FVHN
\$1,000	ONTH
\$30,000	30TH

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2403), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2403-0000001-001.

H. Pack - A Pack of the "LUCKY 3" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

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

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "LUCKY 3" Scratch Ticket Game No. 2403.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "LUCKY 3" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose twenty-two (22) Play Symbols. GAME 1: If a player matches any of the YOUR NUMBERS Play Symbols to either of the

WINNING NUMBERS Play Symbols, the player wins the prize for that number. GAME 2: If the player reveals 3 matching prize amounts, the player wins that amount. GAME 3: If the player reveals a "3" Play Symbol, the player wins the prize for that symbol instantly! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly twenty-two (22) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

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

13. The Scratch Ticket must be complete and not miscut, and have exactly twenty-two (22) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

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

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

16. Each of the twenty-two (22) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the twenty-two (22) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

A. A Ticket can win up to ten (10) times in accordance with the approved prize structure.

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

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. Each Ticket will have two (2) different WINNING NUMBERS Play Symbols.

E. Non-winning YOUR NUMBERS Play Symbols will all be different.

F. No Prize Symbol will correspond with a non-winning YOUR NUMBERS Play Symbol (i.e., 5 and \$5).

G. Non-winning Prize Symbols will never appear more than two (2) times.

H. There will never be more than three (3) matching Prize Symbols on any Ticket.

I. There will be no more than three (3) pairs of matching Prize Symbols on a Non-Winning Ticket.

J. Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

K. There will be no more than one (1) set of three (3) matching Prize Symbols on a Ticket.

L. There will never be more than two (2) \$30,000 Prize Symbols on a Ticket.

M. The "3" (WIN\$) may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY 3" Scratch Ticket Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY 3" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "LUCKY 3" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not 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 "LUCKY 3" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "LUCKY 3" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 9,000,000 Scratch Tickets in Scratch Ticket Game No. 2403. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2403 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	1,008,000	8.93
\$4.00	576,000	15.63
\$5.00	180,000	50.00
\$10.00	180,000	50.00
\$20.00	90,000	100.00
\$40.00	15,000	600.00
\$100	15,000	600.00
\$500	1,125	8,000.00
\$1,000	70	128,571.43
\$30,000	5	1,800,000.00

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

**The overall odds of winning a prize are 1 in 4.36. 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. 2403 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. 2403, 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-202202039
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 25, 2022



Scratch Ticket Game Number 2405 "LOOSE CHANGE®"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2405 is "LOOSE CHANGE®". The play style is "Add Up".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2405 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2405.

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: 1¢ COIN SYMBOL, 5¢ COIN SYMBOL, 10¢ COIN SYMBOL, 25¢

COIN SYMBOL, 50¢ COIN SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$50.00, \$100 and \$500.

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. 2405 - 1.2D

PLAY SYMBOL	CAPTION
1¢ COIN SYMBOL	1CENT
5¢ COIN SYMBOL	5CENTS
10¢ COIN SYMBOL	10CENTS
25¢ COIN SYMBOL	25CENTS
50¢ COIN SYMBOL	50CENTS
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN

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 (2405), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start

with 001 and end with 150 within each Pack. The format will be: 2405-0000001-001.

H. Pack - A Pack of the "LOOSE CHANGE®" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will be exposed.

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

rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "LOOSE CHANGE®" Scratch Ticket Game No. 2405.

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 "LOOSE CHANGE®" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seven (7) Play Symbols. A player scratches the entire play area to reveal 6 coins and a PRIZE. If the coin values add up to more than \$1.00, the player wins the PRIZE. 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 seven (7) 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 seven (7) 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 seven (7) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seven (7) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

B. ADD UP - COINS: The COIN Play Symbol values will never add up to exactly \$1.00.

C. ADD UP - COINS: No three (3) or more matching COIN Play Symbols on a Ticket.

D. ADD UP - COINS: The COIN Play Symbol values that appear on adjacent winning or Non-Winning Tickets in a Pack will not add up to the same total.

E. ADD UP - COINS: The Prize Symbols that appear on adjacent Non-Winning Tickets in a Pack will be different.

2.3 Procedure for Claiming Prizes.

A. To claim a "LOOSE CHANGE®" Scratch Ticket Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any

of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "LOOSE CHANGE®" 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.

C. 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.

D. 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 "LOOSE

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

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 17,040,000 Scratch Tickets in Scratch Ticket Game No. 2405. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2405 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	1,931,200	8.82
\$2.00	1,022,400	16.67
\$4.00	454,400	37.50
\$5.00	142,000	120.00
\$10.00	113,600	150.00
\$20.00	85,200	200.00
\$40.00	12,425	1,371.43
\$50.00	2,840	6,000.00
\$100	2,130	8,000.00
\$500	57	298,947.37

*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 4.52. 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. 2405 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. 2405, 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-202202017
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 24, 2022



Scratch Ticket Game Number 2406 "HIT \$200,000!"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2406 is "HIT \$200,000!". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2406 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2406.

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: SAILBOAT SYMBOL, LEMON SYMBOL, HORSESHOE SYMBOL, MOON SYMBOL, PIGGY BANK SYMBOL, RING SYMBOL, WALLET SYMBOL, KEY SYMBOL, DIAMOND SYMBOL, LIGHTNING BOLT SYMBOL, SUN SYMBOL, HAT

SYMBOL, ANCHOR SYMBOL, CHERRY SYMBOL, BANANA SYMBOL, CLOVER SYMBOL, HEART SYMBOL, BOOT SYMBOL, CACTUS SYMBOL, MELON SYMBOL, DICE SYMBOL, BELL SYMBOL, STAR SYMBOL, WISHBONE SYMBOL, 5X SYMBOL, 10X SYMBOL, COIN SYMBOL, 01, 02, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200, \$500, \$1,000 and \$200,000.

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

Figure 1: GAME NO. 2406 - 1.2D

PLAY SYMBOL	CAPTION
SAILBOAT SYMBOL	BOAT
LEMON SYMBOL	LEMON
HORSESHOE SYMBOL	HRSHOE
MOON SYMBOL	MOON
PIGGY BANK SYMBOL	PIGBNK
RING SYMBOL	RING
WALLET SYMBOL	WALLET
KEY SYMBOL	KEY
DIAMOND SYMBOL	DIAMND
LIGHTNING BOLT SYMBOL	BOLT
SUN SYMBOL	SUN
HAT SYMBOL	HAT
ANCHOR SYMBOL	ANCHOR
CHERRY SYMBOL	CHERRY
BANANA SYMBOL	BANANA
CLOVER SYMBOL	CLOVER
HEART SYMBOL	HEART
BOOT SYMBOL	BOOT
CACTUS SYMBOL	CACTUS
MELON SYMBOL	MELON
DICE SYMBOL	DICE
BELL SYMBOL	BELL
STAR SYMBOL	STAR
WISHBONE SYMBOL	WSHBN
5X SYMBOL	WINX5
10X SYMBOL	WINX10
COIN SYMBOL	WIN\$

01	ONE
02	TWO
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON

32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$200,000	200TH

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 (2406), 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: 2406-0000001-001.

H. Pack - A Pack of the "HIT \$200,000!" 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 "HIT \$200,000!" Scratch Ticket Game No. 2406.

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 "HIT \$200,000!" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-one (51) Play Symbols. MAIN PLAY AREA: If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "COIN" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. HIT \$50: If the player reveals 2 matching Play Symbols in the HIT \$50 play area, the player wins \$50. HIT \$100: If the player reveals 2 matching Play Symbols in the HIT \$100 play area, the player wins \$100. HIT \$200: If the player reveals 2 matching Play Symbols in the HIT \$200 play area, the player wins \$200. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly fifty-one (51) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-one (51) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the fifty-one (51) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the fifty-one (51) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

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

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

a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

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

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

C. GENERAL: A Ticket can win up to twenty-three (23) times.

D. GENERAL: The "COIN" (WIN\$), "5X" (WINX5) and "10X" (WINX10) Play Symbols will never appear in the HIT \$50, HIT \$100 or HIT \$200 play areas.

E. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$200,000 will each appear at least once, except on Tickets winning twenty-one (21) times or more, with respect to other parameters, play action or prize structure.

F. HIT \$50: A non-winning HIT \$50 play area will have two (2) different Play Symbols.

G. HIT \$50: Winning Tickets will contain two (2) matching Play Symbols in the HIT \$50 play area and will win \$50.

H. HIT \$100: A non-winning HIT \$100 play area will have two (2) different Play Symbols.

I. HIT \$100: Winning Tickets will contain two (2) matching Play Symbols in the HIT \$100 play area and will win \$100.

J. HIT \$200: A non-winning HIT \$200 play area will have two (2) different Play Symbols.

K. HIT \$200: Winning Tickets will contain two (2) matching Play Symbols in the HIT \$200 play area and will win \$200.

L. MAIN PLAY AREA: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

M. MAIN PLAY AREA: A non-winning Prize Symbol will never match a winning Prize Symbol.

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

O. MAIN PLAY AREA: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

P. MAIN PLAY AREA: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$20 and 20, \$25 and 25 and \$50 and 50).

Q. MAIN PLAY AREA: On all Tickets, a Prize Symbol will not appear more than three (3) times, except as required by the prize structure to create multiple wins.

R. MAIN PLAY AREA: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

S. MAIN PLAY AREA: The "COIN" (WIN\$) Play Symbol will never appear on the same Ticket as the "5X" (WINX5) or "10X" (WINX10) Play Symbols.

T. MAIN PLAY AREA: The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

U. MAIN PLAY AREA: The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

V. MAIN PLAY AREA: The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

W. MAIN PLAY AREA: The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

X. MAIN PLAY AREA: The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

Y. MAIN PLAY AREA: The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

Z. MAIN PLAY AREA: The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

AA. MAIN PLAY AREA: The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

BB. MAIN PLAY AREA: The "5X" (WINX5) and "10X" (WINX10) Play Symbols can appear on the same Ticket as per the prize structure.

CC. MAIN PLAY AREA: The "COIN" (WIN\$) Play Symbol will win the prize for that Play Symbol.

DD. MAIN PLAY AREA: The "COIN" (WIN\$) Play Symbol will never appear more than once on a Ticket.

EE. MAIN PLAY AREA: The "COIN" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

FF. MAIN PLAY AREA: The "COIN" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

2.3 Procedure for Claiming Prizes.

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

B. To claim a "HIT \$200,000!" Scratch Ticket Game prize of \$1,000 or \$200,000, 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 "HIT \$200,000!" 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 "HIT \$200,000!" 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 "HIT \$200,000!" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2406. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2406 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	912,000	7.89
\$10.00	592,000	12.16
\$20.00	80,000	90.00
\$25.00	112,000	64.29
\$50.00	42,000	171.43
\$100	37,000	194.59
\$200	7,320	983.61
\$500	2,600	2,769.23
\$1,000	35	205,714.29
\$200,000	5	1,440,000.00

*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 4.03. 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. 2406 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. 2406, 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-202202015
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 24, 2022



Scratch Ticket Game Number 2407 "PAYOUT MULTIPLIER"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2407 is "PAYOUT MULTIPLIER". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2407 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2407.

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: 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, WISHBONE SYM-

BOL, KEY SYMBOL, GRAPES SYMBOL, CLOVER SYMBOL, DIAMOND SYMBOL, BANANA SYMBOL, MELON SYMBOL, HEART SYMBOL, HORSESHOE SYMBOL, JOKER SYMBOL, CHERRIES SYMBOL, BELL SYMBOL, STAR SYMBOL, GOLD BAR SYMBOL, STACK OF CASH SYMBOL, POT OF GOLD SYMBOL, CROWN SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000, \$25,000 and \$250,000.

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

Figure 1: GAME NO. 2407 - 1.2D

PLAY SYMBOL	CAPTION
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR

35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
WISHBONE SYMBOL	WBN
KEY SYMBOL	KEY
GRAPES SYMBOL	GRPE
CLOVER SYMBOL	CLO

DIAMOND SYMBOL	DMD
BANANA SYMBOL	BAN
MELON SYMBOL	MEL
HEART SYMBOL	HEART
HORSESHOE SYMBOL	HRSHOE
JOKER SYMBOL	JOKER
CHERRIES SYMBOL	WINX2
BELL SYMBOL	WINX3
STAR SYMBOL	WINX4
GOLD BAR SYMBOL	WINX5
STACK OF CASH SYMBOL	WINX10
POT OF GOLD SYMBOL	WINX20
CROWN SYMBOL	WINX50
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH
\$25,000	25TH
\$250,000	250TH

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 (2407), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2407-0000001-001.

H. Pack - A Pack of the "PAYOUT MULTIPLIER" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket back 001 and 050 will both be exposed.

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

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "PAYOUT MULTIPLIER" Scratch Ticket Game No. 2407.

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 "PAYOUT MULTIPLIER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eighty-six (86) Play Symbols. GAME 1 PLAY INSTRUCTIONS: 1) If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that ROW. 2) If a player wins on a ROW, the player checks to see if the MULTIPLIER symbol for that ROW matches a MULTIPLIER SYMBOL in the MULTIPLIER LEGEND. 3) If there is a match, the player multiplies the PRIZE won for that ROW by the corresponding MULTIPLIER VALUE in the MULTIPLIER LEGEND. PAYOUT BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same PAYOUT BONUS, the player wins that amount. 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 eighty-six (86) 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 eighty-six (86) 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 eighty-six (86) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eighty-six (86) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

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

C. GAME 1 (Key Number Match): No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 30 and \$30).

D. GAME 1 (Key Number Match): No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

E. GAME 1 (Key Number Match): No matching WINNING NUMBERS Play Symbols on a Ticket.

F. GAME 1 (Key Number Match): A non-winning Prize Symbol will never match a winning Prize Symbol.

G. GAME 1 (Key Number Match): A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. GAME 1 (Key Number Match): The "CHERRIES" (WINX2) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. GAME 1 (Key Number Match): The "BELL" (WINX3) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

J. GAME 1 (Key Number Match): The "STAR" (WINX4) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

K. GAME 1 (Key Number Match): The "GOLD BAR" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

L. GAME 1 (Key Number Match): The "STACK OF CASH" (WINX10) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

M. GAME 1 (Key Number Match): The "POT OF GOLD" (WINX20) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

N. GAME 1 (Key Number Match): The "CROWN" (WINX50) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

O. GAME 1 (Key Number Match): Non-winning ROWS will only use one (1) of the following MULTIPLIER Play Symbols: "WISHBONE" (WBN), "KEY" (KEY), "GRAPES", (GRPE), "CLOVER" (CLO), "DIAMOND (DMD), "BANANA" (BAN), "MELON" (MEL), "HEART" (HEART), "HORSESHOE" (HRSHOE) and "JOKER" (JOKER).

P. GAME 1 (Key Number Match): A Ticket may have up to five (5) matching non-winning MULTIPLIER Play Symbols, unless restricted by other parameters, play action or prize structure.

Q. PAYOUT BONUS: A non-winning Prize Symbol in one (1) PAYOUT BONUS play area will never match a winning Prize Symbol in another PAYOUT BONUS play area.

R. PAYOUT BONUS: A Ticket may have up to two (2) matching non-winning Prize Symbols in the PAYOUT BONUS play areas, unless restricted by other parameters, play action or prize structure.

S. PAYOUT BONUS: The \$1,000, \$5,000, \$25,000 and \$250,000 Prize Symbols will not be used in the PAYOUT BONUS play areas.

2.3 Procedure for Claiming Prizes.

A. To claim a "PAYOUT MULTIPLIER" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be for-

warded 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 "PAYOUT MULTIPLIER" Scratch Ticket Game prize of \$1,000, \$5,000, \$25,000 or \$250,000, 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 "PAYOUT MULTIPLIER" 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 "PAYOUT MULTIPLIER" 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 "PAYOUT MULTIPLIER" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 12,000,000 Scratch Tickets in Scratch Ticket Game No. 2407. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2407 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	1,320,000	9.09
\$20.00	720,000	16.67
\$30.00	480,000	25.00
\$50.00	360,000	33.33
\$100	125,000	96.00
\$200	24,000	500.00
\$500	8,400	1,428.57
\$1,000	800	15,000.00
\$5,000	60	200,000.00
\$25,000	10	1,200,000.00
\$250,000	5	2,400,000.00

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

**The overall odds of winning a prize are 1 in 3.95. 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. 2407 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. 2407, 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-202202016
Bob Biard
General Counsel
Texas Lottery Commission
Filed: May 24, 2022



Scratch Ticket Game Number 2414 "10X THE MONEY"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2414 is "10X THE MONEY". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2414 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2414.

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

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

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, \$\$ SYMBOL, 10X SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500 and \$30,000.

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

Figure 1: GAME NO. 2414 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
\$\$ SYMBOL	DBL
10X SYMBOL	WINX10
\$2.00	TWO\$

\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$30,000	30TH

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2414), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2414-0000001-001.

H. Pack - A Pack of the "10X THE MONEY" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

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 "10X THE MONEY" Scratch Ticket Game No. 2414.

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 "10X THE MONEY" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose twenty-two (22) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "\$\$\$" Play Symbol, the player wins DOUBLE the PRIZE for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the PRIZE for that symbol.

No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly twenty-two (22) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly twenty-two (22) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

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

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

16. Each of the twenty-two (22) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the twenty-two (22) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

A. A Ticket can win up to ten (10) times in accordance with the approved prize structure.

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

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. Each Ticket will have two (2) different WINNING NUMBERS Play Symbols.

E. Non-winning YOUR NUMBERS Play Symbols will all be different.

F. Non-winning Prize Symbols will never appear more than two (2) times.

G. The "\$\$" (DBL) and "10X" (WINX10) Play Symbols will never appear in the WINNING NUMBERS Play Symbol spots.

H. The "\$\$" (DBL) and "10X" (WINX10) Play Symbol will only appear as dictated by the approved prize structure.

I. Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

J. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 20 and \$20).

2.3 Procedure for Claiming Prizes.

A. To claim a "10X THE MONEY" Scratch Ticket Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "10X THE MONEY" Scratch Ticket Game prize of \$30,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "10X THE MONEY" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

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

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

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

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

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

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

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "10X THE MONEY" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "10X THE MONEY" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

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

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 9,120,000 Scratch Tickets in Scratch Ticket Game No. 2414. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2414 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	912,000	10.00
\$4.00	729,600	12.50
\$5.00	145,920	62.50
\$10.00	109,440	83.33
\$20.00	72,960	125.00
\$50.00	60,800	150.00
\$100	6,156	1,481.48
\$500	114	80,000.00
\$30,000	4	2,280,000.00

*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 4.48. 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. 2414 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. 2414, 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-202202027
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: May 24, 2022



Texas Department of Transportation

Public Hearing on Proposed Amendments to Rules Relating to Utility Accommodation and Utility Relocation Prepayment Funding Agreements

Pursuant to the Administrative Procedure Act, Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive public comments on proposed amendments to 43 Texas Administrative Code §§21.31, 21.37, 21.38, 21.40, and 21.41, concerning Utility Accommodation, and the proposed repeal of 43 Texas Administrative Code §§21.921 - 21.930, concerning Utility Relocation Prepayment Funding Agreements. The text of the amendments and repeal were published in the April 15, 2022, issue of the *Texas Register* (47 TexReg 1976).

The public hearing will be held on June 10th at 9:00 a.m. in the Ric Williamson Hearing Room, First Floor, Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations,

associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member when possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc. for proper reference. Any suggestions or requests for alternative language or other revisions to the proposed text should be submitted in written form. Presentations must remain pertinent to the issues being discussed. A person may not assign a portion of his or her time to another speaker. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested

to contact the General Counsel Division, 125 East 11th Street, Austin, Texas 78701-2483, (512) 463-8630 at least five working days before the date of the hearing so that appropriate services can be provided.

TRD-202201953

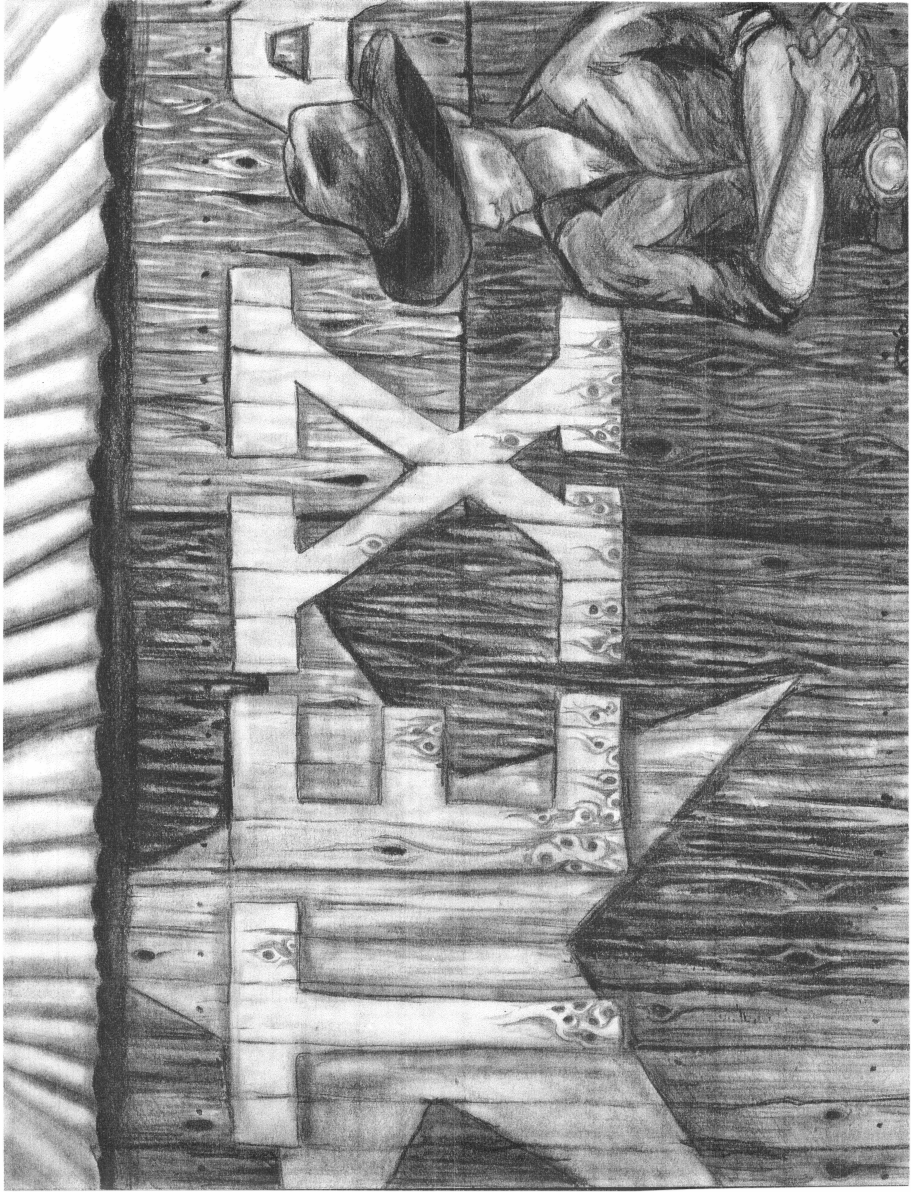
Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: May 19, 2022





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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