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ATTORNEY GENERAL

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THE GOVERNOR

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

Proclamation 41-3934

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 and renewed in a number of subsequent proclamations, certifying that the wildfires which 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, Culberson, 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, Taylor, 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 14th day of October, 2022.

Greg Abbott, Governor

TRD-202204202

♦ ♦ ♦

Proclamation 41-3935

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 19th day of October, 2022.

Greg Abbott, Governor

TRD-202204203

♦ ♦ ♦

Proclamation 41-3936

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 aforementioned proclamation and declare a disaster for Bee, Brewster, Brooks, Chambers, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, Frio, Galveston, Goliad, Gonzales, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, 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 19th day of October, 2022.

Greg Abbott, Governor

TRD-202204204

♦ ♦ ♦

Proclamation 41-3937

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of Texas, do hereby certify that the shooting that occurred on May 24, 2022, at Robb Elementary School in the City of Uvalde has caused widespread and severe damage, injury, and loss of life in Uvalde County, Texas; and

WHEREAS, those same conditions continue to exist in Uvalde County;

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 Uvalde County.

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(a), 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 24th day of October, 2022.

Greg Abbott, Governor

TRD-202204205

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THE ATTORNEY GENERAL

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

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

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

Requests for Opinions

RQ-0480-KP

Requestor:

The Honorable Harold V. Dutton, Jr.

Chair, House Committee on Public Education

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Questions related to public-private partnerships for state-funded prekindergarten offered by Texas school districts under Education Code section 29.153 (RQ-0480-KP)

Briefs requested by November 10, 2022

RQ-0481-KP

Requestor:

The Honorable Paul Bettencourt

Chair, Senate Committee on Local Government

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a public facility corporation created under Local Government Code chapter 303 has authority to acquire real property for leaseholds outside of its sponsor's geographic jurisdiction and whether such acquisition furthers a public interest (RQ-0481-KP)

Briefs requested by November 10, 2022

RQ-0482-KP

Requestor:

The Honorable Rene P. Montalvo

Starr County Attorney

401 North Britton Avenue, #405

Rio Grande City, Texas 78582

Re: Authority of a general-law city to offer trash collection services outside its geographic boundaries (RQ-0482-KP)

Briefs requested by November 14, 2022

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

TRD-202204187
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: October 25, 2022

♦ ♦ ♦

Opinions

Opinion No. KP-0419

The Honorable DeWayne Burns

Chair, House Committee on Agriculture and Livestock

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a merchant may offer a theft deterrent course in lieu of arrest and prosecution and whether doing so would expose a merchant or educational provider to civil or criminal liability (RQ-0444-KP)

S U M M A R Y

The shopkeeper's privilege in section 124.001 of the Civil Practice and Remedies Code authorizes a merchant to detain a person suspected of shoplifting to investigate ownership of the property. While that statute does not supply authority for a merchant to offer a theft deterrent course in lieu of referral to law enforcement for arrest and prosecution, we find no other Texas law that specifically prohibits such a practice.

Opinion No. KP-0420

The Honorable Dana Young

Cherokee County Attorney

Post Office Box 320

Rusk, Texas 75785

Re: Authority of a county to dispose of salvage property as salvage or waste under section 263.152 of the Local Government Code (RQ-0455-KP)

S U M M A R Y

Section 263.152 of the Local Government Code authorizes a county to periodically sell the county's surplus or salvage property by competi-

tive bid or auction. "Salvage property" is personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended. When a county attempts to sell salvage property by competitive bidding or auction but receives no bids, the county may dispose of the property through a recycling program under which the property is collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

A commissioners court possesses implied authority to utilize recycling programs for the disposition of routinely discarded county waste, subject to other applicable law. Whether culverts the county removes from real property are "routinely discarded as waste" presents fact questions for the commissioners court to determine and cannot be resolved in an attorney general opinion.

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

TRD-202204188
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: October 25, 2022

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 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 392. PURCHASE OF GOODS AND SERVICES FOR SPECIFIC HEALTH AND HUMAN SERVICES COMMISSION PROGRAMS

SUBCHAPTER H. DFPS CONTRACTED SERVICES

1 TAC §392.703

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §392.703, concerning Unsolicited Proposals for Community-Based Care Services.

BACKGROUND AND PURPOSE

The purpose of the proposal is to establish procedures for the Texas Department of Family and Protective Services (DFPS) to accept and evaluate unsolicited proposals from entities based in this state to provide community-based care services in certain areas.

The proposal is necessary to comply with Senate Bill (S.B.) 1896, 87th Legislature, Regular Session, 2021. S.B. 1896 amended Texas Family Code §264.157 to require DFPS to accept and evaluate unsolicited proposals from entities based in this state to provide community-based care services in geographic areas where DFPS has not implemented community-based care. The statute also requires HHSC, in conjunction with DFPS, to adopt rules to ensure the proposals comply with state procurement laws and rules.

SECTION-BY-SECTION SUMMARY

Proposed new §392.703 identifies the statutory requirement that DFPS accept and evaluate unsolicited proposals from entities to provide community-based care services, requires unsolicited proposals to comply with requirements of the bill and state procurement laws and rules, and provides submission instructions.

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 rule;

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

(8) the proposed rule will not affect the state's economy.

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because there are no requirements to alter current business practices.

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 does not impose a cost on regulated persons, relates to a state agency procurement, and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Kay Molina, Deputy Executive Commissioner of Procurement and Contracting Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be that the rule will expand community-based care services in geographic areas of the state where DFPS has not previously implemented community-based care. Eligible entities will be able to apply for a contract with DFPS at any time, regardless of the existence of a Request for Applications. As a result, the agency expects increased provision of services across the state.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because there are no anticipated costs associated with the rule.

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 *HHSRulesCoordinationOffice@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 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 22R099" 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, and Texas Family Code §264.157(b), which requires HHSC in conjunction with DFPS to adopt rules to ensure that proposals submitted under the subsection comply with procurement laws and rules.

The new section implements Texas Government Code §531.0055 and Texas Family Code §264.157.

§392.703. Unsolicited Proposals for Community-Based Care Services.

(a) As provided by §264.157 of the Texas Family Code, the Texas Department of Family and Protective Services (DFPS) accepts and evaluates unsolicited proposals from entities based in this state to provide community-based care services in a geographic service area where DFPS has not implemented community-based care.

(b) An unsolicited proposal for community-based care services must:

(1) demonstrate the entity meets the criteria for community-based care services as described in Texas Family Code, Chapter 264, Subchapter B-1;

(2) demonstrate the entity has established connections to the area the entity proposes to serve; and

(3) comply with applicable state procurement laws and rules.

(c) An unsolicited proposal for community-based care services is submitted to DFPS by email to CBCUnsolicitedProposal@dfps.texas.gov.

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 October 21, 2022.

TRD-202204165

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 406-2500

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TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 35. ENFORCEMENT

16 TAC §35.32

The Texas Alcoholic Beverage Commission (TABC, agency, or commission) proposes the repeal of 16 Texas Administrative. Code §35.32 as part of the four-year cycle of review and revision of its rules prescribed by Government Code §2001.039.

Background and Summary of Basis for the Proposed Rule Repeal

The proposed repeal results 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. Current §35.32 is proposed to be repealed and its content, with revisions, adopted in new §35.1, which is proposed in a separate, simultaneous rulemaking.

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. The repeal applies statewide and has the same effect in rural communities as in urban communities. Likewise, the proposed repeal will not adversely affect a local economy in a material way.

Small Business and Micro-Business Assessment/Flexibility Analysis

No material fiscal implications are anticipated for small or microbusinesses 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 pri-

vate real property and there is no reduction in value of property as a result of this rulemaking.

Public Benefits and Costs

Ms. Horton has determined that for each year of the first five years that the proposed repeal would be in effect, the public would benefit from the reorganization of Chapter 35 of the commission's rules to eliminate large, unexplained gaps in rule numbering. 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 regulation. 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.*

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.

§35.32. Reporting a Breach of the Peace.

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 October 21, 2022.

TRD-202204179
Shana Horton
Rules Attorney
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 206-3451

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER GG. COMMISSIONER'S RULES CONCERNING COUNSELING PUBLIC SCHOOL STUDENTS

19 TAC §61.1073

The Texas Education Agency (TEA) proposes new §61.1073, concerning counseling public school students. The proposed new rule would implement the statutory requirement for school districts to annually assess compliance with the district policy requiring a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of a counseling program as required by Senate Bill (SB) 179, 87th Texas Legislature, Regular Session, 2021.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §33.006(d), as added by Senate Bill 179, 87th Texas Legislature, Regular Session, 2021, requires school districts to adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of a counseling program developed under TEC, §33.005. TEC, §33.006(h), requires each school district to annually assess the district's compliance with the policy regarding school counselors' work time, and, on request by the commissioner, provide a written copy of the assessment to TEA on or before a date specified by the commissioner.

Proposed new §61.1073 would implement TEC, §33.006(h). The new rule would require each district school counselor to track and document, using a district-standardized tracking tool, the time spent on work duties performed by the school counselor throughout a school year. The new rule would also identify the elements that district assessments must include and the documentation to be included in annual requests by TEA for district assessments.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal beyond what is required by statute.

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 create a new regulation by implementing the statutory requirement for assessment of school district compliance with policies requiring a school counselor to spend

at least 80 percent of the school counselor's total work time on duties that are components of a counseling program.

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 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. Martinez 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 implementation of the statutory requirements for time spent by school counselors on duties that are components of a counseling program as outlined in state law. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have a data and reporting impact for school districts randomly selected to submit information to TEA annually. Selected school districts will be required to provide a copy of the school district policy adopted under TEC, §33.006(d); all completed district-standardized tracking tools from the previous school year; the number of school counselors in the school district from the previous school year; the number of school counselors whose work is determined by the district to be in compliance with the school district policy adopted under TEC, §33.006(d); the percentage of school counselors in the school district whose work is determined by the district to be in compliance with the school district policy adopted under TEC, §33.006(d); and any other findings, conclusions, or analysis included in the annual assessment, including proposed strategies to address any lack of compliance with the district policy adopted under TEC, §33.006(d).

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 November 4, 2022, and ends December 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 November 4, 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/.

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §33.005, which provides that a school counselor shall plan, implement, and evaluate a comprehensive school counseling program that meets the requirements of the section; TEC, §33.006(d), as added by Senate Bill (SB) 179, 87th Texas Legislature, Regular Session, 2021, which requires, except as provided by subsection (e) of the section, school districts to adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of a counseling program developed under TEC, §33.005; TEC, §33.006(e), as added by SB 179, 87th Texas Legislature, Regular Session, 2021, which requires school district boards of trustees that determine that staffing needs require school counselors to spend less than 80 percent of their work time on duties that are components of counseling programs developed under TEC, §33.005, to change the policy adopted under subsection (d) of the section to reflect the reasons why counselors need to spend less than 80 percent of their work time on components of the counseling program, list those non-component duties, and set the required percentage of work time to be spent on components of the counseling program; and TEC, §33.006(h), as added by SB 179, 87th Texas Legislature, Regular Session, 2021, which requires each school district to annually assess the district's compliance with the policy adopted under TEC, §33.006(d), and, on request by the commissioner, provide a written copy of the assessment to Texas Education Agency on or before a date specified by the commissioner. This section requires the commissioner to adopt rules to implement these requirements.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §33.005 and §33.006, as amended by Senate Bill 179, 87th Texas Legislature, Regular Session, 2021.

§61.1073. Annual Assessment of School District Compliance.

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Comprehensive school counseling program--provision of a guidance curriculum, responsive services, individual planning, and system support as described in Texas Education Code (TEC), §33.005(b).

(2) Duties that are components of a counseling program--work activities related to the development, implementation, and evaluation of a comprehensive school counseling program as described in TEC, §33.005(b).

(3) School counselor--the position described by TEC, §21.003, and Chapter 239, Subchapter A, of this title (relating to School Counselor Certificate).

(4) School counselor's total work time--the amount of time, reported in hours, that a school counselor is contracted to work as a school counselor for a school district during a school year.

(b) School districts shall require each district school counselor to track and document, using a standardized tracking tool, the time spent on work duties performed by the school counselor throughout a school year. This tracking tool shall:

(1) include the following components:

(A) the total work time worked by the school counselor for the year;

(B) the total time spent on each of the following duties that are components of a counseling program developed under TEC, §33.005:

(i) provision of a guidance curriculum;

(ii) responsive services for students;

(iii) individual planning for students; and

(iv) system support;

(C) the total time spent on duties that are not components of a counseling program developed under TEC, §33.005; and

(D) a calculation of the percentage of work time spent on each component of a counseling program; and

(2) be maintained by the district in a format that can be made available to Texas Education Agency (TEA) upon request.

(c) School districts shall annually assess the district's compliance with the policy adopted under TEC, §33.006(d). The assessment shall include:

(1) work time tracking documentation as described in subsection (b) of this section for each school counselor in the district;

(2) the number of school counselors whose work was in compliance with the district policy adopted under TEC, §33.006(d); and

(3) the percentage of school counselors in the district whose work was in compliance with the district policy adopted under TEC, §33.006(d).

(d) The assessment described in subsection (c) of this section shall be maintained by the school district in a format that can be made available to TEA upon request.

(e) Not later than October 15 of each year, TEA will request the following information from a randomly selected sample of school districts, with district responses required to be submitted to TEA not later than November 15 of each year in the format requested by TEA:

(1) a copy of the district policy adopted under TEC, §33.006(d);

(2) all completed district-standardized tracking tools from the previous school year;

(3) the number of school counselors in the district from the previous school year;

(4) the number of school counselors whose work is determined by the district to be in compliance with the district policy adopted under TEC, §33.006(d);

(5) the percentage of school counselors in the district whose work is determined by the district to be in compliance with the district policy adopted under TEC, §33.006(d); and

(6) any other findings, conclusions, or analysis included in the annual assessment required by subsection (c) of this section, including proposed strategies to address any lack of compliance with the district policy adopted under TEC, §33.006(d).

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 October 24, 2022.

TRD-202204182
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 475-1497

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TITLE 25. HEALTH SERVICES

PART 7. TEXAS MEDICAL DISCLOSURE PANEL

CHAPTER 601. INFORMED CONSENT

25 TAC §601.5, §601.9

The Texas Medical Disclosure Panel (Panel) proposes amendments to §601.5, concerning Disclosure and Consent Form for Radiation Therapy, and §601.9, concerning Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia).

BACKGROUND AND PURPOSE

These amendments are proposed in accordance with Texas Civil Practice and Remedies Code §74.102, which requires the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure. Section 601.5 contains disclosure and consent forms for radiation therapy in English and Spanish and §601.9 contains disclosure and consent forms for anesthesia and/or perioperative pain management (analgesia) in English and Spanish.

SECTION-BY-SECTION SUMMARY

Proposed amendments to §601.5 replace the English and Spanish forms in Figure 25 TAC §601.5(1) and Figure 25 TAC §601.5(2) respectively.

Proposed amendments to §601.9 replace English and Spanish forms in Figure 25 TAC §601.9(1) and Figure 25 TAC §601.9(2) respectively.

FISCAL NOTE

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal impact to state or local governments as a result of administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

The Panel has determined that during the first five years that the sections will be in effect:

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

(2) implementation of the proposed rules will not affect the number of employee positions;

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

(4) the proposed rules will not affect fees paid to the agency;

(5) the proposed rules will not create new rules;

(6) the proposed rules will not expand existing rules;

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

(8) the proposed rules will not affect the state's economy.

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

Chairman Appel has also determined that there will be no anticipated economic costs to small businesses, micro-businesses, or rural communities required to comply with the amendments as proposed because physicians and health care providers already have an obligation to disclose risks and hazards related to medical care and surgical procedures. The amendments will not add additional costs.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There will be no economic costs to persons required to comply with the sections as proposed, and there will be no impact on local employment.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, and do not impose a cost on regulated persons.

PUBLIC BENEFIT

In addition, Chairman Appel also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering these amended disclosure rules will be that patients are better informed about the risks and hazards related to medical treatments and surgical procedures they are considering.

REGULATORY ANALYSIS

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

Comments on the proposal may be submitted to Kayla Cates-Brown, Project Manager II, Advisory Committee Coordination Office, Chief Policy and Rules, Health and Human Services Commission, 701 West 51st Street, Suite 350A, Austin, Texas 78751; Mail Code 0223, P.O. Box 13247, Austin, Texas 78711; fax (512) 206-3984; office (512) 438-2889, or by email to HHSC_TMDP@hhsc.state.tx.us.

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

STATUTORY AUTHORITY

The amendments are authorized under Texas Civil Practice and Remedies Code §74.102, which provides the Texas Medical Disclosure Panel with the authority to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the form(s) for the treatments and procedures which do require disclosure.

The amendments implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§601.5. Disclosure and Consent Form for Radiation Therapy.

The Texas Medical Disclosure Panel adopts the following form to be used by a physician or health care provider to inform a patient or person authorized to consent for a patient of the possible risks and hazards involved in the radiation therapy named in the form. This form is to be used in lieu of the general disclosure and consent form adopted in §601.4(a) of this title (relating to Disclosure and Consent Form) for disclosure and consent relating to only radiation therapy procedures. If a surgical or anesthetic procedure is required in combination with a radiation therapy procedure, the general disclosure and consent form as adopted in §601.4(a) of this title and the form adopted in this section shall be used. The general disclosure and consent form shall be used for the surgical or anesthetic procedure and the radiation therapy disclosure and consent form shall be used for the radiation therapy procedure. Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Department of State Health Services.

(1) English form.
Figure: 25 TAC §601.5(1)
[~~Figure: 25 TAC §601.5(1)~~]

(2) Spanish form.
Figure: 25 TAC §601.5(2)
[~~Figure: 25 TAC §601.5(2)~~]

§601.9. Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia).

The Texas Medical Disclosure Panel adopts the following form which shall be used to provide informed consent to a patient or person authorized to consent for the patient of the possible risks and hazards involved in anesthesia and/or perioperative pain management (analgesia). Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Health and Human Services Commission.

(1) English form.
Figure: 25 TAC §601.9(1)
[~~Figure: 25 TAC §601.9(1)~~]

(2) Spanish form.
Figure: 25 TAC §601.9(2)
[~~Figure: 25 TAC §601.9(2)~~]

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 October 21, 2022.

TRD-202204181

Dr. Noah Appel
Panel Chairman
Texas Medical Disclosure Panel
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 497-1339

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 7. MEMORANDA OF UNDERSTANDING

30 TAC §7.101

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes the repeal of §7.101.

Background and Summary of the Factual Basis for the Proposed Rules

This rulemaking is being proposed in response to a quadrennial rule review (Project Number 2019-096-007-LS) during which the commission determined that 30 Texas Administrative Code (TAC) §7.101 was obsolete (February 28, 2020, issue of the *Texas Register* (45 TexReg 1446)).

Section by Section Discussion

The proposed rulemaking would repeal 30 TAC §7.101, which is the Memorandum of Understanding between the Texas Natural Resource Conservation Commission (TNRCC) and the Texas Department of Commerce (TDC). The rule delineates the responsibilities of the TNRCC and the TDC. Subsection (d) of the rule provides "this memorandum *shall terminate August 31, 1999,* unless extended by mutual agreement." The TNRCC and TDC did not extend the term of the MOU.

Senate Bill (SB) 932, 75th Regular Session (1997), abolished the Texas Department of Commerce and transferred its duties to the newly formed Texas Department of Economic Development. SB 275, 78th Regular Session (2003), abolished the Texas Department of Economic Development and transferred its duties to the Texas Economic Development and Tourism Office.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed repeal is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rulemaking.

Public Benefits and Costs

Ms. Bearse determined that for each year of the first five years the proposed repeal is in effect, the public benefit anticipated would be improved accuracy of the Texas Administrative Code due to the removal of an obsolete provision.

The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed repeal is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed repeal is in effect. The repeal would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed repeal for the first five-year period the proposed repeal is in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed repeal does not adversely affect a small or micro-business in a material way for the first five years the proposed repeal is in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, or require an increase or decrease in fees paid to the agency. The proposed rulemaking does repeal an existing, obsolete regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability because the provision has expired. During the first five years, the proposed repeal should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking action is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. "Major environmental rule" is defined as 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. This rulemaking does not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

This rulemaking would repeal an obsolete rule. The rulemaking does not meet the definition of "Major environmental rule" because it is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. Therefore, the commission finds that this rulemaking is not a "Major environmental rule."

Furthermore, the rulemaking does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225, only applies to a state agency's adoption of a major environmental rule that: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds 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 4) adopts a rule solely under the general powers of the agency instead of under a specific state law. Specifically, the rulemaking does not exceed a standard set by federal law, rather it repeals an obsolete rule. The rulemaking does not exceed an express requirement of state law nor exceed a requirement of a delegation agreement. Under Texas Government Code, §2001.0225, only a major environmental rule requires a regulatory impact analysis. Because the proposed rulemaking does not constitute a major environmental rule, a regulatory impact analysis is not required.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission performed an assessment of this rulemaking in accordance with Texas Government Code, §2007.043. This rulemaking will only repeal an obsolete rule. This repeal would not constitute either a statutory or a constitutional taking of private real property. This rulemaking would impose no burdens on private real property because the proposed repeal neither relates to nor has any impact on the use or enjoyment of private real property, and there is no reduction in value of the property as a result of this rulemaking.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for repeal are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the repeal affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Wednesday December 7, at 10:00 a.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Monday December 5, 2022. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Tuesday, December 6, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTRiNjA4NjItMTFkOS00ZTFmLTllM2UtMGVmYjQ1YzQzODJl%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%2c%22IsBroadcastMeeting%22%3atrue%7d

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: https://tceq.commentinput.com/. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2022-020-007-LS. The comment period closes on December 7, 2022. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html*. For further information, please contact Kathy Humphreys, Environmental Law Division, (512) 239-3417.

Statutory Authority

The repeal is proposed under Texas Water Code (TWC), §5.102, which establishes the general authority of the commission necessary to carry out its jurisdiction; TWC, §5.103, which establishes that the commission, by rule, shall establish and approve all general policy of the commission; TWC, §5.105, which establishes the general authority of the commission to adopt rules necessary to carry out its powers and duties under the TWC and other laws of this state; and TWC, §5.120, which requires the commission to administer the law so as to promote the conservation and protection of the quality of the state's environment and natural resources.

The proposed repeal implements Texas Government Code §2001.039, Agency Review of Existing Rules.

§7.101. Memorandum of Understanding between the Texas Department of Commerce and the Texas Natural Resource Conservation Commission.

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 October 21, 2022.

TRD-202204177
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 239-0600

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CHAPTER 292. SPECIAL REQUIREMENTS FOR CERTAIN DISTRICTS AND AUTHORITIES

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §292.1 and §292.13.

Background and Summary of the Factual Basis for the Proposed Rules

This rulemaking proposes to amend 30 Texas Administrative Code (TAC) Chapter 292 for consistency with the repeal of Texas Water Code (TWC), Chapter 9 and the abolishment of the Central Colorado River Authority. Additionally, this rulemaking proposes to amend Chapter 292 to remove or revise outdated references to Industrial Development Bonds and Pollution Control Bonds and Historically Underutilized Businesses (HUB) requirements.

Section by Section Discussion

Additional changes are proposed to clarify language and are considered non-substantive and not specifically addressed in the Section by Section Discussion of this preamble.

§292.1, Objective and Scope of Rules

The commission proposes to amend §292.1(a) to account for the repeal of TWC, Chapter 9 made during the 80th Texas Legislature, Regular Session, 2007, in Senate Bill (SB) 3 by Senator Kip Averitt related to the development, management, and preservation of the water resources of the state; providing penalties. The commission also proposes to amend §292.1(a)(5) by deleting the reference to the Central Colorado River Authority and by renumbering the remaining subsections in this section. The Central Colorado River Authority was dissolved by the 85th Texas Legislature, Regular Session, 2017, in SB 2262 by Senator Charles Perry.

§292.13, Minimum Provisions

The commission proposes to amend §292.13(5) to remove an outdated reference to Industrial Development Bonds and Pollution Control Bonds from the minimum requirements for administrative policies adopted by the boards of the authorities subject to Chapter 292. Industrial Development Bonds and Pollution Control Bonds are no longer used by these entities. The commission also proposes to amend §292.13(6)(B) to update the reference to HUB requirements that must be included in the administrative policies of the authorities subject to Chapter 292.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Ms. Bearse determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated will be compliance with state law. The proposed rulemaking is not anticipated to result in fiscal implications for businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Community Impact Statement

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking does repeal regulations to comply with changes to state law. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in the Texas Administrative Procedure Act. A "Major environmental rule" is a rule that is specifically intended 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.

This rulemaking does not meet the statutory definition of a "Major environmental rule" because it is not the specific intent of the rule to protect the environment or reduce risks to human health from environmental exposure. The primary purpose of the proposed rulemaking is to implement legislative changes enacted by SB 3 from the 80th Texas Legislature and SB 2262 from the 85th Texas Legislature and to delete or revise outdated references in the rule.

In addition, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the proposed rules will not 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 cost of complying with the proposed rules is not expected to be significant with respect to the economy.

Furthermore, the proposed rulemaking is not subject to Texas Government Code, §2001.0225 because it does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). The proposed rulemaking does not exceed a standard set be federal or state law. Second, the proposed rulemaking does not exceed an express requirement of state law. Third, the proposed rulemaking does not 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. Finally, the proposed rulemaking will be adopted pursuant to the commission's specific authority in TWC, §5.013, which gives the commission continuing supervision over districts, and TWC, §12.081, which allows the commission to issue rules necessary to supervise districts and authorities. Therefore, the rules are not adopted solely under the commission's general powers.

The commission invites public comment of the draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section to this preamble.

Takings Impact Assessment

The commission evaluated these rules and performed an analysis of whether they constitute a taking under Texas Government Code, Chapter 2007. The primary purpose of this rulemaking is to implement SB 3 from the 80th Texas Legislature relating to the development, management, and preservation of the water resources of the state, and SB 2262 from the 85th Texas Legislature relating to the dissolution of the Central Colorado River Authority and to delete or revise outdated references in the rule. The proposed rules would advance this purpose by making the commission's rules consistent with SB 3 and SB 2262 and by deleting or revising outdated references.

Promulgation and enforcement of these rules would constitute neither a statutory nor a constitutional taking of private real property. These rules would not adversely affect a landowner's rights in private real property, in whole or in part, temporarily or permanently, because this rulemaking would not burden nor restrict the owner's right to property. These provisions would not impose any burdens or restrictions on private real property. Therefore, the amendments do not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for repeal are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the repeals affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Wednesday, December 7, at 2:00 p.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Monday December 5, 2022. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Tuesday, December 6, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_YmZkOGNiMTMtZGJiNy00OGNjLWFjMDYtZGNhOGNmMjlhMDg5%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%2c%22IsBroadcastMeeting%22%3atrue%7d

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov.* Electronic comments may be submitted at: https://tceq.commentinput.com/. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2022-017-292-OW. The comment period closes on December 7, 2022. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html.* For further information, please contact Justin Taack, Water Supply Division, (512) 239-0418.

SUBCHAPTER A. GENERAL PROVISIONS

30 TAC §292.1

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.102, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, which establishes the commission's general authority to adopt rules; and TWC, §5.105, which establishes the commission's authority to set policy by rule. In addition, TWC, §5.013 gives the commission continuing supervision over districts, and TWC, §12.081 gives the commission the authority to issue rules necessary to supervise districts.

The proposed amendment implements Senate Bill (SB) 3 from the 80th Texas Legislature, 2007, related to the development, management, and preservation of the water resources of the state; and it implements SB 2262 from the 85th Texas Legislature, 2017, relating to the dissolution of the Central Colorado River Authority.

§292.1. Objective and Scope of Rules.

(a) The commission has the continuing right of supervision of districts and authorities created under Article III, §52 and Article XVI, §59 of the Texas Constitution. [~~The authorities identified in Texas Water Code (TWC), §9.010, shall report to the Texas Water Advisory Council as specified in TWC, §9.011.~~] This chapter shall govern the administrative policies of the following districts:

(1) Angelina and Neches River Authority;

(2) Bexar-Medina-Atascosa Counties Water Control and Improvement District Number 1;

(3) Brazos River Authority;

(4) Canadian River Municipal Water Authority;

[~~(5) Central Colorado River Authority;~~]

(5) [~~(6)~~] Colorado River Municipal Water District;

(6) [~~(7)~~] Dallas County Utility and Reclamation District;

(7) [~~(8)~~] Guadalupe-Blanco River Authority;

(8) [~~(9)~~] Gulf Coast Water Authority;

(9) [~~(10)~~] Lavaca-Navidad River Authority;

(10) [~~(11)~~] Lower Colorado River Authority;

(11) [~~(12)~~] Lower Neches Valley Authority;

(12) [~~(13)~~] Mackenzie Municipal Water Authority;

(13) [~~(14)~~] North Central Texas Municipal Water Authority;

(14) [~~(15)~~] North Harris County Regional Water Authority;

(15) [~~(16)~~] North Texas Municipal Water District;

(16) [~~(17)~~] Northeast Texas Municipal Water District;

(17) [~~(18)~~] Nueces River Authority;

(18) [~~(19)~~] Red River Authority of Texas;

(19) [~~(20)~~] Sabine River Authority;

(20) [~~(21)~~] San Antonio River Authority;

(21) [~~(22)~~] San Jacinto River Authority;

(22) [~~(23)~~] Sulphur River Basin Authority;

(23) [~~(24)~~] Sulphur River Municipal Water District;

(24) [~~(25)~~] Tarrant Regional Water District, a Water Control and Improvement District;

(25) [~~(26)~~] Titus County Fresh Water Supply District Number 1;

(26) [~~(27)~~] Trinity River Authority of Texas;

(27) [~~(28)~~] Upper Colorado River Authority;

(28) [~~(29)~~] Upper Guadalupe River Authority;

(29) [~~(30)~~] Upper Neches River Municipal Water Authority; and

(30) [~~(31)~~] West Central Texas Municipal Water District.

(b) Nothing in this chapter shall be construed to relieve a district of its legal duties, obligations, or liabilities relative to its responsibilities as defined in its enabling legislation or in the TWC.

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 October 21, 2022.

TRD-202204173
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 239-2678

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SUBCHAPTER B. ADMINISTRATIVE POLICIES

30 TAC §292.13

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.102, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, which establishes the commission's general authority to adopt rules; and TWC, §5.105, which establishes the commission's authority to set policy by rule. In addition, TWC, §5.013 gives the commission continuing supervision over districts, and TWC, §12.081 gives the commission the authority to issue rules necessary to supervise districts.

The proposed amendment implements SB 3 from the 80th Texas Legislature, 2007, related to the development, management, and preservation of the water resources of the state; and it implements SB 2262 from the 85th Texas Legislature, 2017, relating to the dissolution of the Central Colorado River Authority.

§292.13. Minimum Provisions.

The following provisions shall be incorporated into the administrative policies adopted by the authorities subject to these rules.

(1) Code of Ethics. The administrative policies shall mandate compliance with the following standards:

(A) the Local Government Code, Chapter 171, relating to conflicts of interests with a business entity in which the official has a substantial interest.

(B) Texas Government Code, Chapter 573, relating to nepotism.

(C) for River Authorities, Texas Government Code, Chapter 572, relating to standards of conduct, personal financial disclosure, and conflict of interest.

(D) Article III, Section 52, of the Texas Constitution, relating to the prohibition on granting public money or things of value to any individual, association or corporation.

(2) Travel Expenditures. The administrative policies shall provide for reimbursing district officials for necessary and reasonable travel expenditures incurred while conducting business or performing official duties or assignments. The board may adopt additional policies which further define the criteria for necessary and reasonable travel expenditures and which provide procedures for the reimbursement of expenses.

(3) Investments. The administrative polices shall provide for compliance with the following statutes:

(A) Subchapter A, Chapter 2256, Government Code (the Public Funds Investment Act);

(B) Chapter 2257, Government Code (the Public Funds Collateral Act); and

(C) any other appropriate statutes which are applicable to the investment of the authority's funds.

(4) Professional Services Policy. The administrative polices shall provide for compliance with the following standards:

(A) Texas Government Code, Chapter 2254, Subchapter A (the Professional Services Procurement Act) which prohibits the selection of professional services based on competitive bids.

(B) A list shall be maintained of at least three qualified persons or firms for each area of professional service used by the authority. The pre-qualified persons or firms shall be sent a request for proposal for any contract award for a new project which is expected to exceed $25,000.

~~[(5) Industrial Development Bonds and Pollution Control Bonds. The administrative policies shall reference any industrial development corporation associated with the authority and shall provide for compliance with the memorandum issued by the State Auditor on October 7, 1988 relating to the disclosure of industrial development and pollution control bonds.]~~

(5) [~~(6)~~] Management Policies. The administrative policies shall provide for the following:

(A) an independent management audit to be conducted every five years and submitted to the executive director. As an alternative, an internal audit office may be established which reports to the board of directors.

(B) compliance with the provisions and intent of Texas Government Code Chapter 2161 [~~§106, Contracting With Historically Underutilized Businesses of Texas, Article V, General Provisions of Texas House Bill 1, 72nd Legislature, First Called Session (1991)~~] relative to contracting with underutilized businesses and providing equal employment opportunities.

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 October 21, 2022.

TRD-202204174
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 239-2678

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CHAPTER 293. WATER DISTRICTS
SUBCHAPTER E. ISSUANCE OF BONDS
30 TAC §293.59

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes an amendment to §293.59.

Background and Summary of the Factual Basis for the Proposed Rules

This rulemaking proposes to amend 30 Texas Administrative Code (TAC) Chapter 293 as a follow-up to a rule petition and stakeholder engagement. The rule petition was considered by the commissioners at the June 9, 2021, Agenda. The commissioners directed the ED to initiate rulemaking to address the request contained in the rule petition. In addition, TCEQ staff solicited stakeholder input on the issues raised by the rule petition from all potentially affected districts located in Chambers County and received four letters filed in support of the changes requested in the rule petition.

Section by Section Discussion

Additional changes are proposed to clarify language and are considered non-substantive and not specifically addressed in the Section by Section Discussion of this preamble.

§293.59, Economic Feasibility of Project

The commission proposes to amend §293.59(k)(3)(A) to add Chambers County to the list of counties subject to the $1.50 projected feasibility tax rate limit; and revise 30 TAC §293.59(k)(4)(A) to add Chambers County to the list of counties subject to the $2.50 no-growth feasibility tax rate limit as a follow-up to a rule petition and stakeholder engagement. As discussed in the rule petition requesting this change, which was heard by the commission on June 9, 2021, the proposed changes would increase the limit the combined projected tax rate and combined no-growth tax rate for a district's first and subsequent bond issues for districts located in Chambers County.

Fiscal Note: Costs to State and Local Government

Jené Bearse, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency as a result of administration or enforcement of the proposed rule.

The fiscal implications to units of local government, specifically water districts within Chambers County, cannot be determined because the tax rate of a water district is set by the governing

body of the district. The agency will use the combined projected tax rate and the no-growth tax rate to determine the economic feasibility of a proposed bond issue, bond amendment, and extension of time application for a bond issue. The proposed rulemaking allows the agency to consider a limit of $1.50 for the combined projected tax rate and a limit of $2.50 for the no-growth tax rate for these water districts.

Public Benefits and Costs

Ms. Bearse determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated will be additional flexibility for the water districts in Chambers County, as requested by rule petition and stakeholder engagement with the agency.

The fiscal implications to businesses and individuals, specifically property owners within water districts in Chambers County, cannot be determined because the tax rate of a water district is set by the governing body of the district. The agency will use the combined projected tax rate and the no-growth tax rate to determine the economic feasibility of a proposed bond issue, bond amendment, and extension of time application for a bond issue. The proposed rulemaking allows the agency to consider a limit of $1.50 for the combined projected tax rate and a limit of $2.50 for the no-growth tax rate for these water districts.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Community Impact Statement

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking does alter an existing regulation relating to the agency's determination of the economic feasibility of a proposed bond issue, bond amendment, and extension of time application for a bond issue. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination [if full RIA not required]

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in the Texas Administrative Procedure Act. A "Major environmental rule" is a rule that is specifically intended 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.

This rulemaking does not meet the statutory definition of a "Major environmental rule" because it is not the specific intent of the rule to protect the environment or reduce risks to human health from environmental exposure. The primary purpose of the proposed rulemaking is to revise 30 TAC §293.59(k)(3)(A) and §293.59(k)(4)(A) to add Chambers County to the counties subject to the $1.50 projected feasibility tax rate limit and the $2.50 no-growth feasibility tax rate limit in response to a rule petition and stakeholder input.

In addition, the rulemaking does not meet the statutory definition of a "Major environmental rule" because the proposed rules will not 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 cost of complying with the proposed rules is not expected to be significant with respect to the economy.

Furthermore, the proposed rulemaking is not subject to Texas Government Code, §2001.0225 because it does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). There are no federal standards governing the area of tax rate limits with respect to water districts. Second, the proposed rulemaking does not exceed an express requirement of state law. Third, the proposed rulemaking does not 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. Finally, the proposed rulemaking will be adopted pursuant to the commission's specific authority in Texas Water Code, §5.013, which gives the commission continuing supervision over districts, and Texas Water Code, §12.081, which allows the commission to issue rules necessary to supervise districts and authorities. Therefore, the rules are not adopted solely under the commission's general powers.

The commission invites public comment of the draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section to this preamble.

Takings Impact Assessment

The commission evaluated these rules and performed an analysis of whether they constitute a taking under Texas Government Code, Chapter 2007. The primary purpose of this rulemaking

is to ensure that Chambers County has the appropriate tax rate limit under the commission's bond review rules. The proposed rules would advance this stated purpose by revising the relevant rules in Chapter 293 of 30 Texas Administrative Code.

Promulgation and enforcement of these rules would constitute neither a statutory nor a constitutional taking of private real property. These rules would not adversely affect a landowner's rights in private real property, in whole or in part, temporarily or permanently, because this rulemaking would not burden nor restrict the owner's right to property. These provisions would not impose any burdens or restrictions on private real property. Therefore, the amendments do not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that the sections proposed for repeal are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will the repeals affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hold a hybrid virtual and in-person public hearing on this proposal in Austin on Wednesday December 7, at 2:00 p.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Monday December 5, 2022. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Tuesday, December 6, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at: https://teams.microsoft.com/l/meetup-join/19%3ameeting_YmZkOGNiMTMtZGJiNy00OGNjLWFjMDYtZGNhOGNmMjlhMDg5%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%2c%22IsBroadcastMeeting%22%3atrue%7d

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov.* Electronic comments may be submitted at: https://tceq.commentinput.com/. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2022-017-292-OW. The comment period closes on November 8, 2022. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html.*For further information, please contact Justin Taack, Water Supply Division (512) 239-0418.

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.102, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, which establishes the commission's general authority to adopt rules; and TWC, §5.105, which establishes the commission's authority to set policy by rule. In addition, TWC, §5.013 gives the commission continuing supervision over districts, and TWC, §12.081 gives the commission the authority to issue rules necessary to supervise districts.

Therefore, the TWC authorizes rulemaking that amends §293.59(k), which relates to the projected tax rate and no-growth tax rate for proposed bond issuances.

§293.59. Economic Feasibility of Project.

(a) In addition to determining the engineering feasibility of a project, the commission shall also determine the economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue. The staff of the commission shall use the following sections in making economic feasibility analysis. In its written recommendations to the commission, which analyze the particular application, the staff shall always address the economic feasibility.

(b) Economic feasibility is the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bond indebtedness while maintaining competitive utility rates. Utility rates that do not exceed the rates of the largest city in the geographic area in which the district is located are conclusively deemed to be competitive. Economic feasibility is influenced by many factors and varies widely depending on economic conditions, the real estate market, the number of competing projects, and geographic location.

(c) Projected debt service tax rate is the tax rate required to meet the projected annual debt service requirement using projected assessed valuations and an appropriate tax collection rate. The projected annual debt service requirement shall include the previous and proposed debt. The projected debt service tax rate for any bond issue shall be shown in the cash flow table as a level or decreasing tax rate.

(d) No-growth debt service tax rate is the tax rate required to meet projected annual debt service requirements using the current assessed value and a 100% tax collection rate. The current value is determined by either:

(1) the most recent certificate of assessed valuation from the central appraisal district; or

(2) a certificate of estimated assessed valuation from the central appraisal district. Projected annual debt service requirements shall include the previous and proposed debt. The no-growth debt service tax rate for any bond issue shall be shown on the cash flow table as a level or decreasing tax rate.

(e) Combined no-growth tax rate is the sum of the following:

(1) no-growth debt service tax rate of the district;

(2) projected no-growth debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, or recreational facilities that are smaller in size than a county, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct. (In other words, for road districts or road utility districts that are as large as one county commissioner's precinct, the road district tax is not counted.);

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payments.

(f) Combined projected tax rate is the sum of the following:

(1) projected debt service tax rate of the district;

(2) projected debt service tax rate of all overlapping entities specifically attributable to water, wastewater, drainage, recreational facilities, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct;

(3) an equivalent surcharge tax rate for water and wastewater surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, drainage, and recreational facilities if the district is located within a city;

(5) current or proposed district or overlapping maintenance tax levy, if any;

(6) contract tax, if any; and

(7) less any equivalent tax rebate or other payment.

(g) A surcharge is a flat charge in addition to rates imposed on residents receiving water and/or wastewater service from resources of a city or other entity and supplied through district facilities. Surcharge revenues are placed in the district's debt service fund and are intended to be used to meet the debt service requirement on the district's bonds.

(h) For districts collecting surcharge revenues, the equivalent surcharge tax rate shall be calculated as follows.

(1) For residential development with similar house prices:
Figure 1: 30 TAC §293.59(h)(1) (No change.)

(2) For mixed-use development and diverse house prices:
Figure 2: 30 TAC §293.59(h)(2) (No change.)

(3) For purposes of this calculation, no adjustments shall be made for projected collection rate of the surcharge, interest earnings on the surcharge account, or other factors.

(i) For districts receiving a rebate for taxes paid to a city or other entity for water, wastewater, drainage, recreational, or road service, the equivalent tax rebate shall be calculated as follows:
Figure 3: 30 TAC §293.59(i) (No change.)

(j) The assessed value is the appraised value after considering exemptions and special valuations and is the amount to which the tax rate is applied to determine the total tax levy.

(k) For a district's first bond issue, the following paragraphs apply except that paragraphs (5), (6), (8), and (10) of this subsection are only applicable to a district that has a developer as defined by Texas Water Code (TWC), §49.052(d).

(1) The district shall provide the current and projected tax rates of all entities levying or proposing to levy taxes on land within the district and a comparison of such taxes with the total tax levy on all competing projects in the same market area, as defined in the market study, if applicable, shall be provided.

(2) A cash flow analysis to determine the projected debt service revenue and projected tax rate shall be provided. It should include the following assumptions.

(A) Each ending debt service balance in the cash flow analysis will be not less than 25% of the following year's debt service requirement.

(B) Interest income will only be shown on the ending debt service balance for the first two years.

(C) A 90% tax collection rate shall be used in all the projected tax rate calculations and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(D) The projected tax rate shall be level or decreasing for the life of the bonds.

(3) The combined projected tax rate must not exceed the following:

(A) $1.50 in Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) $1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) $1.00 in all other counties.

(4) The combined no-growth tax rate must not exceed the following:

(A) $2.50 in Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) $2.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(C) $2.00 for all other counties.

(5) The following apply to the central appraisal district certificate.

(A) If the valuations contained in the certificate of certified assessed valuation are at least 25% higher than those contained in the previous year's certified valuation, a written explanation from the district of such increase and a detailed calculation demonstrating how the value was derived shall be provided.

(B) In determining the projected or no-growth tax rates, a certificate of estimated assessed valuation may be used under the following conditions:

(i) the developer or landowner to receive bond proceeds shall certify, represent, and agree that it will not challenge and attempt to reduce its valuations below the values shown on the certificate for the life of the bonds;

(ii) if the valuation contained in the certificate of estimated taxable valuation is at least 25% higher than that contained in the most recent certified valuation, a written explanation from the district of such increase shall be provided;

(iii) if the estimated taxable valuation results in an exemption from §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) and the final certificate of taxable value is not sufficient for an exemption from that section, the developer will be obligated to refund to the district the difference in the bond issue requirement without developer contribution and with developer contribution plus interest at the bond interest rate to the district; and

(iv) developed land values will not be used in the commission's analysis for lots that do not have completed water, wastewater, and drainage facilities and roads constructed to county or city standards, as applicable, at the time of development.

(6) At the time of commission approval, the following shall apply:

(A) all underground water, wastewater, and drainage facilities to be financed with proceeds from the proposed bond issue or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, shall be at least 95% complete as certified by the district's engineer;

(B) all groundwater, surface water, waste discharge permits, or other permits needed to secure capacity to support the projected build-out shall have been obtained;

(C) sufficient lift station, water plant, and sewage treatment plant capacity, as applicable depending on the type of district, to serve the connections projected for a period of not less than 18 months shall be either 95% complete as certified by the district's engineer or available in existing plants in accordance with executed contracts for capacity in plant(s) owned by other entities (but in no event less than 50,000 gallons per day water plant and sewage treatment plant capacity);

(D) water supply, lift station, and wastewater treatment capacity needed to support the projected build-out used to support the feasibility of the subject bond application must be existing or funds for that capacity must be included in the bond issue or secured by a letter of credit or other acceptable guarantees approved by the executive director; and

(E) all street and road construction to provide access to the areas provided with utilities to be financed with proceeds from the proposed bond issue, or necessary to serve the projected build-out used to support the feasibility of the subject bond issue, must be 95% complete as certified by the district's engineer. All streets and roads shall be constructed in accordance with city or county standards, as appropriate.

(7) At least 25% of the projected value of houses, buildings, and/or other improvements shown in the projected tax rate calculations must be completed prior to advertising for the bond issue. The projections used to satisfy this section shall also be used in the calculations required by paragraphs (2) and (3) of this subsection.

(8) For bonds supported by taxes, a written agreement must be executed between the district and the developer and any other landowner and their respective lenders receiving proceeds of the bonds that permanently waives the right to claim agricultural, open-space, timberland, or inventory valuation for any land, homes, or buildings that they own in the district with respect to taxation by the district. The agreement shall be binding for 30 years on such developer, other landowners, their respective lenders, any related or affiliated entities, and their successors and assignees, unless such exemptions were in effect at the time of the commission's approval of the bond issue and such exemptions were shown in the projected tax rate calculations. Such developer, landowners, and lenders shall record covenants running with the land to such effect, which shall not be modified or released without written authorization of the commission, and shall provide recorded copies to the commission at the time of filing a bond application. If written agreements by owners of developable property who are not receiving bond proceeds are not voluntarily provided, and the ratio of the assessed valuation of their property to the district's total certified assessed valuation exceeds 10% for any individual or 20% for all combined, the feasibility analysis of the bond issue will be based on a reduced value for such property if not already on the tax rolls at a minimal value.

(9) One or more of the requirements in paragraphs (1) - (8) of this subsection may be waived for good cause by commission order if all of the facilities proposed under a bond issue application are essential because of valid orders, permits, or actions against the district by a governmental agency or court. If only a portion of the bond issue is for facilities essential because of valid orders, permits, or actions against the district by a governmental agency or court and if a waiver of any of the requirements is requested, all nonessential projects may be deleted from the bond issue if not feasible under the other provisions of these rules.

(10) A current market study is required for districts using growth projections to support the feasibility of the bond issue. The market study will meet the guidelines set out in the Bond Application Report Format. The market study provided will specifically address the projected building program for the three years subsequent to filing of the bond application and the period of projected build-out shown in the bond application and the competing projects in the surrounding market area. The study must contain a detailed description of the proposed development and the houses, buildings, and other improvements that are proposed.

(11) Requirements of paragraph (6)(A), (C), and (E) of this subsection, and the requirements of paragraph (7) of this subsection shall not apply in the following cases where:

(A) the no-growth tax rate for a district containing 2,000 acres or more providing only drainage facilities does not exceed $1.30; the no-growth tax rate of a district providing major water and sewage facilities that it finances by the issuance of its bonds to an area containing 2,000 acres or more does not exceed $1.30, and the combined no-growth tax rate does not exceed $2.00; and, the developer has completed a substantial amount of major thoroughfare or other infrastructure to serve the district;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title
or a credit enhanced rating as defined in paragraph (5) of this subsection; or

(C) the district is providing water, wastewater, and drainage facilities and the combined no-growth tax rate of all overlapping entities specifically attributable to water, sewage, drainage, recreational facilities, and roads if the entity is a special district encompassing less than one county commissioner's precinct, if any, does not exceed the following:

(i) $1.50 in Chambers, Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(ii) $1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties; or

(iii) $1.00 in all other counties.

(D) for the exceptions in subparagraph (A) or (C) of this paragraph, the developer shall provide a guarantee for its 30% share of utilities, if required under §293.47 of this title, in the form and manner required by §293.47(g) of this title;

(E) for utilities that are not funded and not complete but necessary to support the feasibility of the bond issue, the developer shall provide a guarantee for 100% of utilities for the exceptions in subparagraphs (A), (B), or (C) of this paragraph in the form and manner required by §293.47(g) of this title;

(F) for the exceptions in subparagraph (B) or (C) of this paragraph, the developer shall provide a paving guarantee under §293.48 of this title (relating to Street and Utilities Construction by Developer); or

(G) for the exceptions in subparagraph (A) of this paragraph, financial guarantees for the internal subdivision utilities and streets are not required.

(l) For a district's second and subsequent bond issues, subsection (k) of this section shall apply, and the following shall apply except that only paragraph (1) of this subsection applies to districts that do not have a developer as defined by TWC, §49.052(d), or to districts that meet the criteria set out in subsection (k)(11) of this section.

(1) A 90% tax collection rate shall be used in the projected tax rate calculations unless the district demonstrates that its historical collection rate is higher, and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(2) The water, wastewater, and drainage facilities financed by the district under previous bond issues and all road and street construction to serve such connections shall be at least 95% complete as certified by the district's engineer.

(3) Sufficient lift station, water plant, and sewage treatment plant capacity to serve the connections shown in the tax rate calculations submitted in prior bond issues shall be at least 95% complete as certified by the district's engineer, unless the district is a participant in a regional surface water or wastewater plant, a permit sufficient for the expansion has been issued, and either:

(A) funds are available to finance such capacity and any additional capacity necessary for a feasible expansion;

(B) sufficient capacity is contractually available to serve all such prior connections; or

(C) the plant is under construction with sufficient capacity to serve all such prior connections.

(4) Houses and/or buildings equal to 75% of the projected buildout used in the projected tax rate calculations contained in all prior bond issues shall be completed and may be located on either:

(A) the area developed from the proceeds of the prior bond issues; or

(B) a combination of the area developed from the proceeds of prior bond issues, the proposed bond issue, and future bond issues.

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) disregarding those areas that had growth projected and were financed in previous bond issues, at least 50% of the value of the houses and/or buildings shown in the build-out schedule and used in the projected tax rate calculations supporting the subject bond issue must be existing;

(B) the district anticipates receiving an acceptable credit rating as defined in §293.47(b)(4) of this title or a credit enhanced rating as defined in §293.47(b)(5) of this title, and such rating must be obtained prior to the sale of bonds; or

(C) the district has a ratio of debt to assessed valuation as provided in §293.47(a)(1) of this title.

(m) Bond issues supported only by revenue from a defined area must be analyzed to assure that the defined area meets the requirements of this section independently of the remainder of the issuing district.

(n) A district may request a variance if it does not meet the guidelines contained in subsections (k) and (l) of this section, and a majority of the district's board of directors finds by resolution that the district would be justified in requesting a variance. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance. The commission shall not grant a variance to the maximum combined projected tax rate or the maximum combined no-growth tax rate specified in subsection (k) of this section for districts that have a developer and the district is financing 100% of construction costs under the criteria set out in §293.47(a) of this title, which would otherwise require 30% developer participation. In determining whether to grant a variance, the following factors shall be considered:

(1) the degree of variation from the guidelines;

(2) the past history of the district with respect to its projections versus actual build-out and compliance with commission rules;

(3) the past history of the developer and related or affiliated entities with respect to its projections versus actual build-out and its compliance with commission rules and agreements with the district and other districts in which it developed land;

(4) other factors peculiar to the district, such as the area in which situated, economic factors, the adjoining competitive developments, and their status;

(5) the financial resources of the developer and its lender and any special commitments, obligations, or expenditures for the project;

(6) past history of the market area in which the project is located; and

(7) other factors that may affect the feasibility of the project.

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 October 21, 2022.

TRD-202204175

Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: December 4, 2022
For further information, please call: (512) 239-2678

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WITHDRAWN RULES

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

TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 33. LICENSING

SUBCHAPTER E. EVENTS AT A TEMPORARY LOCATION

16 TAC §33.81

The Texas Alcoholic Beverage Commission withdraws proposed new §33.81, which appeared in the August 12, 2022, issue of the *Texas Register* (47 TexReg 4793).

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

TRD-202204154
Shana Horton
Rules Attorney
Texas Alcoholic Beverage Commission
Effective date: October 20, 2022
For further information, please call: (512) 206-3451

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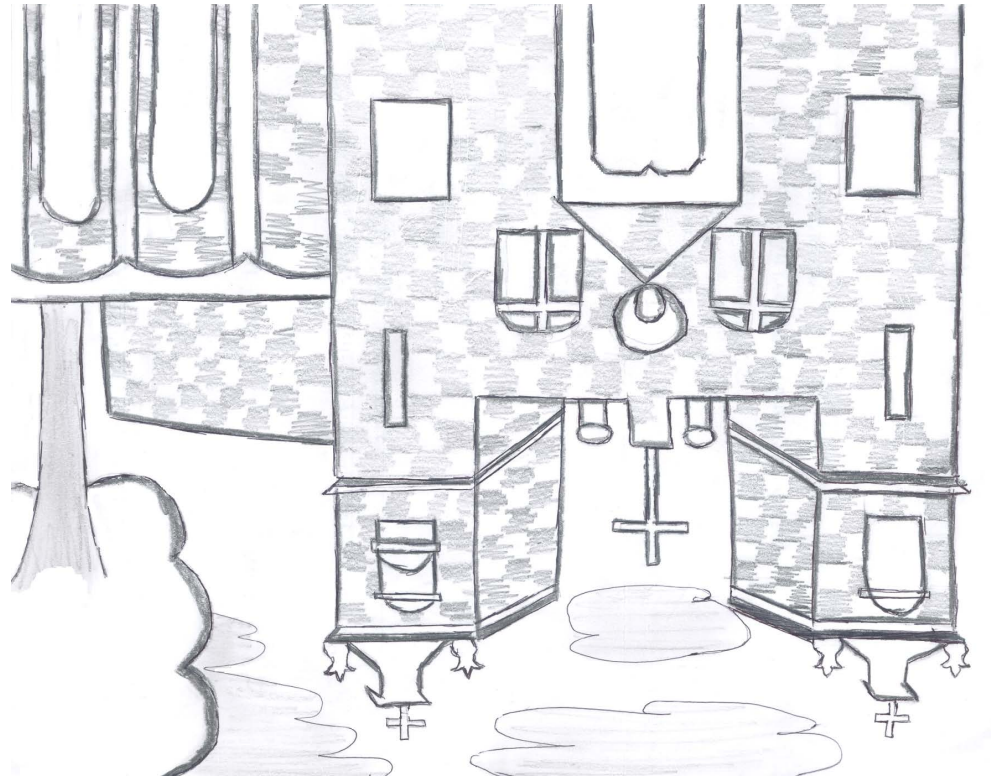

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036).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

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) adopts new 16 Texas Administrative Code (TAC) §24.173, relating to Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment and §24.364, relating to Civil Penalties for Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment. The commission adopts these rules with changes to the proposed text as published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2646). The new rules will be republished. These rules will implement requirements of Senate Bill 3 enacted by the 87th Texas Legislature, as codified in Texas Water Code (TWC) §13.151 and §13.414. Specifically, these new rules will prohibit disconnections and late fees for nonpayment during an extreme weather emergency, require retail public utilities to offer payment schedules for bills due during an extreme weather emergency, and adopt a civil penalty classification system for use by the courts for violations of §24.173.

The commission received comments on the proposed rules from Allen, Boone, Humphries, and Robinson (ABHR), the Association of Water Board Directors (AWBD), the Office of Public Utility Counsel (OPUC), MSEC Enterprises, Inc. (MSEC), San Antonio Water System (SAWS), Schwarz, Page, and Harding (SPH), Texas Association of Water Companies, Inc. (TAWC), and Texas Rural Water Association (TRWA).

Commission Question for Comment

The commission requested comment on the following question:

Should the entities described in proposed subsection §24.173(a) be required to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather emergency? If so, how and when should the covered entities notify customers of this right?

MSEC and OPUC responded affirmatively to the commission's issued question, while TAWC, TRWA, AWBD, SPH, and ABHR responded in the negative.

MSEC and OPUC argued that options such as payment schedules in response to an extreme weather emergency benefit customers when extenuating circumstances prevent timely payment. MSEC and OPUC recommended that the proposed rule specifically include methods to provide notice, such as bill inserts, e-mail, and physical mail, to ensure that customers are properly apprised of the option to request a payment schedule under this rule.

MSEC and OPUC recommended requiring utilities to which §24.173 applies to give customers notice of the payment schedule option within 180 days of the effective date of the rule. OPUC stated that if customers are not notified and therefore unaware of the proposed rule upon adoption, then customers would not benefit in the manner the commission intends and accordingly would be subject to the same hardship the proposed rule was intended to prevent. OPUC argued that, to benefit customers, notice must be "easily accessible and "conspicuous," so that customers can easily find and access the necessary information.

TAWC opposed individual notices to customers about payment schedules as overly burdensome. TAWC contended that alternative public outreach mechanisms would sufficiently notify customers, such as a general notice published on the applicable retail public utility's website and on the commission's website. TAWC highlighted that notice should be encouraged through various methods "determined to be appropriate by each covered entity."

TRWA, AWBD, SPH, and ABHR opposed mailed notice as costly, subject to delay and therefore potentially untimely, and unlikely to be read or received. TRWA, AWBD, SPH, and ABHR further opposed adding any notice requirements on bills due to billing system limitations on adding additional language. TRWA, AWBD, SPH, and ABHR indicated that notice of payment schedules is "generally provided on an ongoing basis through a retail public utility's tariff or service policies, and on the retail public utility's website, if available."

OPUC replied that an alternative notice specific to payment schedules for extreme weather emergencies would impose no additional burden if the retail public utility already provides notice of the availability of payment schedules on its website. Replying to comments asserting that mailed notice would not be read by customers, OPUC commented that tariff and service filings, as suggested by TRWA, AWBD, SPH and ABR, are far less likely to be read by customers than notice mailed directly to a customer. OPUC emphasized that not requiring notice would undercut the intent of the rule.

Commission Response

The commission agrees with MSEC and OPUC that payment schedules and other similar options allow customers greater flexibility to manage bills that could become a financial burden. The commission also agrees with MSEC and OPUC that §24.173 should include a notice provision that requires retail public utilities to make customers aware of the option to request a payment schedule. The commission further agrees with OPUC that tariff and service filings are an insufficient means to provide cus-

tomers with notice of the rule upon adoption. However, as noted by TAWC, TRWA, AWBD, SPH, and ABHR, notices can also impose an administrative burden on retail public utilities. Such a burden could ultimately increase costs for the customers the notice is intended to help. Therefore, the commission amends the rule to require retail public utilities to issue a one-time written notice no later than January 31, 2023 to make customers aware of the requirements of adopted §24.173. The one-time notice may be issued by first class mail, as a bill insert, or by other means such as e-mail or hand delivery. A website posting alone is insufficient to fulfill this requirement but is encouraged in addition to the written notice.

The one-time notice must provide information on the prohibition on imposing late fees or disconnections during extreme weather events, the customer's ability to request a payment schedule, and the prohibition on disconnection of service of to customers that have requested a payment schedule unless they do not agree to, or violate, the terms of the payment schedule offered. Commission staff may develop standardized language to assist retail public utilities in complying with this provision.

Proposed §24.173(a) - Applicability

Proposed §24.173(a) indicates that the section applies to a retail public utility that is required to possess a certificate of convenience and necessity to provide retail water or sewer utility service, an affiliate of such a retail public utility, and a district or affected county that provides retail water or sewer utility service.

TAWC and SAWS commented that TWC §13.151 only applies to a "retail public utility that is required to possess a certificate of convenience and necessity (CCN) or a district or affected county that furnishes retail water or sewer utility service." TAWC noted that for investor-owned utilities (IOUs), the CCN holder is the entity responsible for the provision of "retail water or sewer utility service" and, accordingly, the affiliates of the CCN holder should not be responsible for implementing the new requirements of §24.173 on adoption.

Commission Response

The commission disagrees with TAWC that affiliates of the entity required to possess a CCN should not be responsible for the requirements of §24.173. TWC §13.414(a-1) specifically states that "a retail public utility or affiliate interest that violates Section 13.151 [implemented as §24.173] is subject to a civil penalty." This language clearly establishes that affiliates are capable of violating §24.173, and therefore, are subject to its provisions.

SAWS stated that TWC §13.151 does not apply to municipally owned utilities (MOUs) as MOUs are not required to possess a CCN to provide retail water or sewer service. SAWS recommended that §24.173(a) include an express statement exempting MOUs from the rule's requirements.

Commission Response

The commission declines to include an express statement exempting MOUs from the rule's requirements, because it is unnecessary. As noted by SAWS, MOUs are not required to possess a CCN, so the rule does not apply to them. Including such an unnecessary exclusion in this rule could cause confusion - or even create a presumption that MOUs are included - in the applicability of other commission rules that do not include such an exception.

TRWA, AWBD, SPH, and ABHR recommended revising §24.173(a) for clarity and further recommended replacing the term "county" with the term "area" to more accurately conform to TWC §13.151. TRWA, AWBD, SPH, and ABHR stated that the use of the term "county" creates ambiguity "as to whether the rule requires that a retail public utility located in a county with an extreme weather emergency declaration falls under these rules or whether the retail public utility could rely on one of sometimes numerous National Weather Service (NWS) reports within a particular county." TRWA, AWBD, SPH, and ABHR recommended that the rule not refer to large areas such as counties or ZIP codes as many counties in Texas cover large geographic areas and that weather within a single county could vary.

Commission Response

The commission agrees that temperatures can vary within large counties and replaces the term "county" with "area" as requested. However, an entity to which this rule requires may rely upon county-level data to determine if an extreme weather emergency occurred, if appropriate based upon the availability of data or scope of the weather emergency.

Adopted §24.173(b)(1) - "Affected customer"

The commission adds a definition of "affected customer" to the rule to provide more clarity on the rule's applicability. An affected customer is "a customer of an entity to which this section applies that receives water or sewer service from that entity in an area experiencing an extreme weather emergency and has a bill due during the extreme weather emergency."

Proposed §24.173(b)(1) - "Extreme weather emergency"

Proposed §24.173(b)(1) defines "extreme weather emergency" as a period when the previous day's highest temperature did not exceed 28 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the National Weather Service reports for the county where the affected customer receives water or sewer service.

TAWC requested that the commission clarify whether the commission, another state agency, or the utility is responsible for determining when an "extreme weather emergency," as defined under §24.173(b)(1), is occurring or has taken place as defined in the proposed rule. If the commission or another state agency is responsible, TAWC further requested the commission clarify how utilities are to be notified of the occurrence and the end of an "extreme weather emergency."

Commission Response

Neither the commission nor any other state agency is responsible for declaring the occurrence of an extreme weather emergency. The occurrence of an extreme weather emergency is based on objective information published by NWS. Specifically, the term is defined as when the previous day's highest temperature did not exceed 28 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to NWS reports for the area. The statute and rule implicitly require a utility to monitor NWS reports during winter months. This duty may be accomplished by monitoring information routinely published by NWS or otherwise communicated from NWS directly or indirectly.

With respect to the end of an extreme weather emergency, allowing a utility to resume disconnections and imposing late fees for nonpayment, the commission adds language specifying that for purposes of this section, an extreme weather emergency is over on the second business day the temperature exceeds 28

degrees Fahrenheit. This definition provides affected customers with a one-day grace period to make payments and allows entities to resume disconnections and imposing late fees on the second business day the temperature exceeds 28 degrees Fahrenheit.

In accordance with its recommendation for proposed subsection (a), TRWA, AWBD, SPH, and ABHR recommended revising the definition of "extreme weather emergency" to refer to an "area" as opposed to a "county." TRWA additionally recommended using the "nearest" NWS report so that the rule is more consistent with TWC §13.151. AWBD, SPH, and ABHR offered similar redline edits as those of TRWA but left to the discretion of the utility the determination of the NWS weather station "nearest to the retail service area" that will serve as a reference.

Commission Response

The commission agrees with TRWA, AWBD, SPH, and ABHR and amends the proposed language to refer to "area" instead of "county" consistent with the changes made to subsection (a). Furthermore, the commission agrees that using temperatures from the "nearest" NWS reports to that area aligns with the language of the statute. The commission modifies the proposed language accordingly.

Proposed §24.173(b)(2) - "Payment schedule"

Proposed §24.173(b)(2) defines "payment schedule" as any arrangement or agreement between an entity to which this section applies and a customer in which an outstanding bill will be paid in installments.

TRWA and OPUC recommended revising the definition of "payment schedule" under §24.173(b)(2) to refer to an outstanding bill "due during an extreme weather emergency" to conform with TWC §13.151. Specifically, TRWA stated that this revision and conforming edits to §24.173(c)(1) and (2) are necessary to clarify that the rule applies only to "outstanding bills due during the extreme weather emergency."

Commission Response

The commission agrees with TRWA and OPUC that payment schedules are distinct from other types of deferred payment plans and are specifically designed for customers with an unpaid bill due during an extreme weather emergency. The commission modifies the rule accordingly.

Proposed §24.173(c)(1) and (2) - Prohibited actions

Proposed §24.173(c)(1) prohibits an entity to which §24.173 applies from imposing a late fee on a customer for non-payment of bills related to retail water or sewer utility service during an extreme weather emergency until the extreme weather emergency is over. Proposed §24.173(c)(2) prohibits an entity to which §24.173 applies from disconnecting a customer's retail water or sewer service for nonpayment of bills related to retail water or sewer utility service during an extreme weather emergency until the extreme weather emergency is over.

TRWA, AWBD, SPH, ABHR, and OPUC recommended revising §24.173(c)(1) and (2) to be more consistent with the language of TWC §13.151 as well as proposed §24.173(d) and proposed §24.364. AWBD, SPH, and ABHR offered redline edits that would insert the term "that become due" to indicate that the prohibitions only apply to disconnections and late fees for a customer's nonpayment of bills "that become due" during an extreme weather emergency. TRWA offered a similar redline as AWBD, SPH, and ABHR that used the phrase "that are due" instead of "that become due."

Commission Response

The commission agrees with TRWA and OPUC that the rule should conform to TWC §13.151 as closely as possible. The commission modifies the language of this provision to clarify that entities are prohibited from imposing late fees or disconnecting the retail water or sewer service of an affected customer for nonpayment of a bill that is due during an extreme weather emergency. The commission declines to use "that become due" as recommended by AWBD, SPH, and ABHR, because this is inconsistent with the statute. The phrasing of TWC §13.151(b) captures all bills that "are due" during an extreme weather emergency, even those that are already delinquent.

TAWC requested clarification on the meaning of "imposing a late fee" in proposed §24.173(c)(1). It noted that the phrase could mean assessing a late fee on a specific date or issuing a bill on a specific date that includes a late fee.

Commission Response

An entity to which this rule applies is prohibited from imposing a late fee on an affected customer for nonpayment of a bill that is due during an extreme weather emergency. The commission clarifies that this refers to assessing a late fee during an extreme weather emergency. If a late fee has already been assessed for prior nonpayment, that late fee is not waived. If a customer pays a bill after a due date that occurred during an extreme weather emergency but before the entity is permitted to impose late fees, no late fee should be assessed.

TAWC asked whether, under proposed §24.173, a utility is permitted to disconnect a customer that was sent a disconnection notice prior to the extreme weather emergency but, at the time of the emergency, is not yet disconnected when the extreme weather emergency occurs.

Commission Response

No disconnection is permitted for nonpayment during an extreme weather emergency, regardless of whether it has been previously noticed. If a disconnection was properly noticed, disconnection may occur once the extreme weather emergency is over, unless a customer requests a payment schedule prior to the disconnection taking place.

MSEC noted that the phrase "until the extreme weather emergency is over" in §24.173(c)(2) is ambiguous because how the term "over" is measured is not defined. Specifically, MSEC stated that "over" could mean the exact moment the extreme weather emergency ends or the end of a grace period following the extreme weather emergency. MSEC opined that the prohibition on disconnection is accordingly unclear as §24.173(c)(2) does not specify whether a utility is prohibited from disconnecting on the exact days classified as an extreme weather emergency or for a set period before and after the extreme weather emergencies. MSEC urged the commission to consider the consequences of an extreme weather emergency on a customer's ability to pay bills after the emergency is over.

Commission Response

In response to MESC's comments, the commission clarifies the definition of extreme weather emergency such that "an extreme weather emergency is over on the second business day the temperature exceeds 28 degrees Fahrenheit." This definition incorporates a one-day grace period for a customer to make pay-

ments before an entity can impose late fees or disconnect service for nonpayment. The prohibition is lifted for the entire second business day the temperature exceeds 28 degrees. However, to avoid unintentional violations of the rule, retail public utilities may need to wait until the temperature exceeds 28 degrees before resuming disconnections to determine if the temperature standard is met.

Adopted §24.173(d) - One-time Notice

For the reasons described in responses to the question for comment above, the commission adds a new subsection requiring entities to issue a one-time written notice to inform customers of the requirements of §24.173 by January 31, 2023.

Proposed §24.173(d) - Payment schedule

Proposed §24.173(d), adopted as §24.173(e), enumerates the conditions where a customer of an entity to which §24.173 applies may request to establish a payment schedule for unpaid bills that are due during an extreme weather emergency. Proposed §24.173(d) also prescribes the timeline for response to a request for a payment schedule by a utility and the general content of a payment schedule.

TRWA, AWBD, SPH, and ABHR contended that "automatic eligibility of payment schedules are [sic] likely to create significant costs to retail public utilities, thereby impacting customers." TRWA, AWBD, SPH, and ABHR expressed concern that if every customer can request and be granted a payment schedule, that utilities would experience short- and long-term financial issues as a result. Specifically, TRWA, AWBD, SPH, and ABHR emphasized that the disconnection prohibition, in addition to customers "in many cases...continuing to accrue the monthly base rate plus usage fees well beyond the cost of the customer deposit," jeopardizes the financial stability of utilities via "permanent loss" and ultimately results in other customers bearing such costs. TRWA, AWBD, SPH, and ABHR commented that, because of payment schedules, some customers may never be able to pay off the accrued balance, which results in disconnection. TRWA, AWBD, SPH, and ABHR accordingly cautioned the commission to evaluate the benefits the proposed rules create for individual affected customers versus all customers of a utility system that may be adversely impacted through increased costs of implementation.

Commission Response

The commission declines to modify the rule to remove automatic eligibility for payment schedules as requested by TRWA, AWBD, SPH, and ABHR, because such a modification would be inconsistent with statute. Under TWC §13.151(b), entities "shall work with customers that request to establish a payment schedule for unpaid bills that are due during the extreme weather emergency." The use of the word "shall" makes this requirement mandatory. Further, "work with customers that request to establish a payment schedule" clearly indicates that a payment schedule must be offered if requested by the affected customer. However, the adopted rule provides maximum flexibility regarding the terms of the payment schedule and permits a finance charge to minimize the potential financial burden on retail public utilities.

TRWA, AWBD, SPH, and ABHR argued that proposed §24.173(d), which prescribes the form and content of a payment schedule, is beyond the requirements of SB 3, and that an entity should be able to offer a payment schedule in the manner the entity offers payment plans for non-extreme weather events. TRWA, AWBD, SPH, and ABHR stated that the commission has no statutory support for imposing the prescriptive requirements under proposed §24.173(d)(3) and (4) and noted that TWC §13.151 only states that a utility "shall work with the customer to offer one or more payment schedule options to the requesting customer." TRWA, AWBD, SPH, and ABHR emphasized that implementing TWC §13.151 is burdensome on a utility by itself and that any additional requirements imposed by the commission would only increase that impact. TRWA, AWBD, SPH, and ABHR offered redline edits that modified §24.173(d)(1) and (2) and struck §24.173(d)(3) and (4) in accordance with their recommendations.

OPUC opposed TRWA, AWBD, SPH, and ABHR's revisions to proposed subsection (d), disagreed that the proposed language is beyond the scope of SB 3, and recommended that the commission reject TRWA, AWBD, SPH, and ABHR's proposal. OPUC observed that the commission frequently prescribes the content of various forms or filings without direct statutory prescription under the commission's broad rulemaking authority. OPUC stated that, as proposed, §24.173(d) only contains timing and informational requirements that benefit customers. OPUC argued that, contrary to TRWA, AWBD, SPH, and ABHR's claims, proposed subsection (d) does not stipulate exact requirements for a payment schedule, nor does it require that payment schedules be structured in a certain manner. Accordingly, OPUC emphasized that the contents and details of a payment schedule are still within the discretion of the utility and that the commission is free to prescribe procedural matters via rule within the scope of a broader statutory grant of authority.

AWBD also offered redline language extending the period of time a customer may request a payment schedule from 10 to 30 days. TRWA, SPH, and ABHR each filed comments generally supporting AWBD's comments.

Commission Response

The commission disagrees with TRWA, AWBD, SPH, and ABHR that the payment schedule requirements under proposed §24.173(d), adopted as §24.173(e), are beyond the scope of SB 3. TWC §13.041 clearly authorizes the commission to "adopt and enforce rules reasonably required in the exercise of [its] powers and jurisdiction." The commission agrees with OPUC that §24.173(e)(2) only requires a payment schedule to include information necessary to effectively implement §13.151, including basic timelines and customer protections, such as disclosure requirements, to ensure affected customers receive sufficient information about the details of the payment plan. This section also includes a limitation on finance charges, but this limitation is consistent with the requirements for deferred payment plans under §24.165 (relating to Billing).

However, the commission also modifies this subsection to strike a more appropriate balance between customer protections and any burden imposed on the retail public utility. Consistent with AWBD's proposed revisions, the commission increases the number of days from an extreme weather emergency within which an affected customer can request a payment schedule from 10 to 30. The commission also removes the requirement that a customer must be either provided multiple payment schedule options or be provided with information on how the customer can increase the number of installments for a payment schedule. Each entity subject to this rule can determine the form and manner of an offered payment schedule and whether the entity will consider a customer's request to renegotiate the number of payments or installment amount. These modifications should benefit both customers and retail public utilities by providing each affected customer with a longer period to contact

and make arrangements with its retail public utility, preventing avoidable delinquencies, and retail public utilities with more flexibility in designing payment schedules.

The commission modifies the rule to clarify that retail public utilities are prohibited from disconnecting for nonpayment a customer that has requested a payment schedule unless the customer does not accept the offered schedule or violates its terms. The commission also modifies the rule to clarify that properly issued disconnection notices are suspended upon the request for a payment schedule, but if the customer does not accept the offered payment schedule or violates its terms, the retail public utility can disconnect service without providing another disconnection notice. Conversely, if a customer violates the terms of the payment schedule and a disconnection notice has not yet been issued, the retail public utility must issue a disconnection notice prior to disconnecting service.

The commission also adds language to allow a payment schedule to be established in person, by telephone, or online. Finally, all payment schedules must be reduced to writing and provided to the customer, with a statement providing contact information in case the payment schedule does not reflect the customer's understanding of the agreement.

Proposed §24.364(a) - Scope

Proposed §24.364(a) establishes a classification system to be used by a court to impose civil penalties for violations of §24.173.

The commission modifies this subsection by removing proposed language that the section does not apply to other enforcement actions taken by commission staff, because this language is superfluous.

Proposed §24.364(b) - Classification system

Proposed §24.364(b) classifies violations of PURA and commission rules into Class C, B, and A violations, in increasing order of severity and maximum assignable administrative penalty amounts.

TRWA, AWBD, SPH, and ABHR requested that the commission implement conforming revisions of §24.364(b) in accordance with their recommendations for §24.173 and offered redline edits relating to the same.

Commission Response

The commission agrees with TRWA, AWBD, SPH, and ABHR that §24.364 should be revised to conform to any changes made to §24.173. Substantively, the commission removes "failure to timely offer a payment schedule" from the list of Class C violations, because the commission removed the corresponding deadline from §24.173. The commission adds "failure to provide a customer with a one-time notice" to the list of Class C violations to correspond to the new one-time notice requirements of §24.173 and added "including an undisclosed or noncompliant finance charge on a payment schedule" to the list of Class B violations.

The commission declines to strike §24.364(b)(1)(B)(ii), regarding failure to include the proper content of a payment schedule, as recommended by TRWA, AWBD, SPH, and ABHR, for the reasons discussed under the discussion of proposed §24.173(d). For the same reasons, the commission declines to strike §24.364(b)(2)(B)(ii), regarding failure to offer a payment schedule under §24.173. The commission declines to use the phrase "that become due" in §24.364(b)(2)(B) and (b)(3)(B), regarding Class B and Class A violations, respectively, as recommended by TRWA, AWBD, SPH, and ABHR, and instead revises those provisions to refer to bills "that are due" during an extreme weather emergency to conform with the prohibition under TWC §13.151(b).

MSEC recommended revising §24.364(b) for clarity as certain provisions such as the Class B catch-all provision under §24.364(b)(2)(B)(iii) and dollar amount factor under §24.364(b)(4)(E)(iii) may be ambiguous.

Commission Response

The commission disagrees with MSEC that §24.364(b)(2)(B)(iii) is ambiguous. If a violation is not explicitly classified in this classification system, it is a Class B violation.

The commission agrees with MSEC that §24.364(b) should be revised for clarity. Specifically, the commission revises §24.364(b)(4)(E)(iii) to refer to the dollar amount of late fees issued to the affected customer.

TAWC requested clarification as to whether the maximum amounts for all classes of violation under §24.364(b) are assessed per day, per violation, towards each individual customer, or on a per day, per utility basis. TAWC requested that the commission clarify violations under §24.364 as "per utility," as otherwise violations could "unnecessarily bankrupt water and sewer utilities" given how broadly proposed §24.364 is stated and because such a result would be unreasonable.

Commission Response

Violations under §24.364 are per day, per incident, per customer. TWC §13.414(a-1) explicitly states that civil penalties apply to "each violation," and, for example, improperly disconnecting or issuing a late fee to a single customer is a violation of §24.173.

SUBCHAPTER F. CUSTOMER SERVICE AND PROTECTION

16 TAC §24.173

The new sections are adopted under the following provisions of the TWC: §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the TWC that is necessary and convenient to the exercise of that power and jurisdiction; §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.151, which prohibits certain entities that furnish retail water or sewer utility service from imposing late fees or disconnecting service for nonpayment of bills that are due during an extreme weather emergency until after the emergency is over and requires such entities to work with customers that request to establish a payment schedule for unpaid bills due during the extreme weather emergency; §13.414(a-1), which authorizes a civil penalty of not less than $100 nor more than $50,000 for each violation of §13.151, and §13.414(d), which requires the commission to establish by rule a classification system for use by a court for violations of §13.151 that includes a range of penalties for each class of violation.

Cross Reference to Statute: TWC §§ 13.041(a) and (b), 13.151, and 13.414(a-1) and (d).

§24.173. Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment.

(a) Applicability. This section applies to a retail public utility that is required to possess a certificate of convenience and necessity to

provide retail water or sewer utility service under §24.225 of this title, (relating to Certificate of Convenience and Necessity (CCN) Required) an affiliate of such a retail public utility, and a district or affected county that provides retail water or sewer utility service.

(b) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context indicates otherwise:

(1) Affected customer--a customer of an entity to which this section applies that receives retail water or sewer service from that entity in an area experiencing an extreme weather emergency and has a bill due during the extreme weather emergency.

(2) Extreme weather emergency--a period beginning when the previous day's highest temperature in an area did not exceed 28 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports for that area. For purposes of this section, an extreme weather emergency is over on the second business day the temperature exceeds 28 degrees Fahrenheit.

(3) Payment schedule--an agreement between an entity to which this section applies and an affected customer that allows the customer to pay, in one or more installments, an unpaid bill due during an extreme weather emergency after its due date.

(c) Prohibited actions. An entity to which this section applies is prohibited from imposing a late fee on, or disconnecting the retail water or sewer service of, an affected customer for nonpayment of a bill that is due during an extreme weather emergency until after the extreme weather emergency is over.

(d) One-time notice. On or before January 31, 2023, an entity to which this section applies must provide to each water or sewer customer a one-time written notice of the requirements of this section.

(1) The written notice must be in plain English and Spanish and inform the customer that its retail water or sewer service provider is:

(A) prohibited from imposing late fees or disconnecting retail water or sewer service for nonpayment of bills that are due during an extreme weather emergency until after the emergency is over;

(B) required to offer a payment schedule to a requesting affected customer for unpaid bills due during an extreme weather emergency; and

(C) prohibited from disconnecting the retail water or sewer service for nonpayment of bills due during an extreme weather emergency of an affected customer that has requested a payment schedule until after the payment schedule has been offered and the affected customer has either declined to accept the payment schedule in a timely fashion or violated the terms of the payment schedule.

(2) The written notice may be provided as a billing insert or a separate communication, and must be delivered by first class mail, hand delivered, or provided electronically to affected customers that have agreed to receive communications electronically.

(3) Commission staff may develop standard notice language in English and Spanish and post the standard notice language on the commission's website. An entity may use this standard notice language as part of its written notice to comply with paragraph (1) of this subsection.

(e) Payment schedule. An affected customer may request to establish a payment schedule for unpaid bills that are due during an extreme weather emergency. An entity to which this section applies that receives such a request within 30 days from the date the extreme weather emergency ends must offer the requesting affected customer a payment schedule and a deadline for accepting the payment schedule. A payment schedule may be established in person, by telephone, or online, but all payment schedules must be reduced to writing and provided to the customer.

(1) A payment schedule offered under this subsection may:

(A) include a finance charge, conspicuously stated on the payment schedule, for late fees on the payment schedule not to exceed an annual rate of 10 percent simple interest; and

(B) require payment in one or more installments.

(2) A payment schedule offered under this subsection must:

(A) be written in plain language in English and, if requested, Spanish;

(B) identify the total amount due, and, if payment is to be made in multiple installments, the number of installments and the amount of each installment;

(C) the deadline for payment, or if payment is to be made in multiple installments, the deadline for each installment;

(D) identify the dates the extreme weather event occurred, and the due dates and amounts owed of any bills that were due during the extreme weather event; and

(E) include a statement, in a clear and conspicuous type, that states "If you are not satisfied with this agreement, or if the agreement was made by telephone and you feel this does not reflect your understanding of that agreement, contact (insert name and contact information of service provider)."

(3) An entity to which this section applies is prohibited from disconnecting the retail water or sewer service for nonpayment of bills due during an extreme weather emergency of an affected customer that has requested a payment schedule until after the payment schedule has been offered and the customer has either declined to accept the payment schedule in a timely fashion or violated the terms of the payment schedule. Any preexisting disconnection notices issued to an affected customer for nonpayment of a bill due during an extreme weather emergency are suspended upon the timely request for a payment schedule under this subsection. If the affected customer does not timely accept the offered payment schedule or violates the terms of the payment schedule, any suspended disconnection notices are reinstated, and the entity may renegotiate the terms of the payment schedule or disconnect service on or after the disconnection date listed on the disconnection notice. If the affected customer does not timely accept the offered payment schedule or violates the terms of the payment schedule and there is not a preexisting disconnection notice, the entity must issue a disconnection notice under §24.167 of this title (related to Discontinuance of Service) prior to disconnecting the water or sewer service of the affected customer.

(f) Enforcement. An entity that violates this section may be subject to civil penalties under §24.364 of this title (relating to Civil Penalties for Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment) and any other enforcement actions permitted by law.

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 October 20, 2022.

TRD-202204156
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Effective date: November 9, 2022
Proposal publication date: May 6, 2022
For further information, please call: (512) 936-7322

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SUBCHAPTER K. ENFORCEMENT, SUPERVISION, AND RECEIVERSHIP

16 TAC §24.364

The new sections are adopted under the following provisions of the TWC: §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the TWC that is necessary and convenient to the exercise of that power and jurisdiction; §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §13.151, which prohibits certain entities that furnish retail water or sewer utility service from imposing late fees or disconnecting service for nonpayment of bills that are due during an extreme weather emergency until after the emergency is over and requires such entities to work with customers that request to establish a payment schedule for unpaid bills due during the extreme weather emergency; §13.414(a-1), which authorizes a civil penalty of not less than $100 nor more than $50,000 for each violation of §13.151, and §13.414(d), which requires the commission to establish by rule a classification system for use by a court for violations of §13.151 that includes a range of penalties for each class of violation.

Cross Reference to Statute: TWC §§ 13.041(a) and (b), 13.151, and 13.414(a-1) and (d).

§24.364. Civil Penalties for Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment.

(a) Scope. This section establishes a classification system to be used by a court to impose civil penalties for violations of §24.173 of this title (relating to Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment). Definitions contained in §24.173 of this title apply to this section.

(b) Classification system.

(1) Class C violations.

(A) Civil penalties for a Class C violation may not exceed §1,000 per violation per day.

(B) The following are Class C violations:

(i) failure to timely provide a customer with a one-time notice that complies with §24.173 of this title;

(ii) failure to include all of the required information on a payment arrangement offered under §24.173 of this title.

(2) Class B violations.

(A) Civil penalties for a Class B violation may not exceed $5,000 per violation per day.

(B) The following are Class B violations:

(i) imposing a late fee on an affected customer for nonpayment of bills that are due during an extreme weather emergency in a manner that violates §24.173 of this title;

(ii) including an undisclosed or noncompliant finance charge on a payment schedule issued to an affected customer under §24.173 of this title;

(iii) failure to offer a payment schedule to an affected customer as required by §24.173 of this title; and

(iv) any other violation of §24.173 of this title not specifically enumerated as a Class A or Class C violation.

(3) Class A violations.

(A) Penalties for a Class A violation may not exceed $50,000 per violation per day.

(B) It is a Class A violation to disconnect an affected customer's water or sewer service in a manner that violates §24.173 of this title.

(4) The civil penalty for each separate violation must be in an amount not to exceed the maximum penalty established in paragraphs (1)-(3) of this subsection and not less than $100. The amount of a civil penalty must also be based on:

(A) the seriousness of the violation, including:

(i) the nature, circumstances, extent, and gravity of the prohibited act; and

(ii) the hazard or potential hazard created to the health, safety, or economic welfare of the public.

(B) the history of previous violations;

(C) the amount necessary to deter future violations;

(D) efforts to correct the violation;

(E) any other matter that justice may require, including as applicable:

(i) the duration of the disconnection, both during the extreme weather emergency and afterwards;

(ii) the impact of the disconnection on the health and finances of the affected customer; and

(iii) the dollar amount of late fees issued to the affected customer, if late fees were improperly charged.

(F) for violations by an investor-owned utility, any other matter that justice may require, including:

(i) whether the disconnection was prohibited under §24.167(c) or (f) of this title (relating to Discontinuance of Service); and

(ii) whether the affected customer was provided proper notice of the disconnection under §24.167 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.

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Adriana Gonzales
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TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 195. PAIN MANAGEMENT CLINICS

The Texas Medical Board (Board) adopts the repeal of §§195.1 - 195.4, without changes, they will not be republlished, and adopts new §§195.1 - 195.5, concerning Pain Management Clinics. New sections §§195.1 concerning Definitions, 195.2 concerning Gold Designated Practice, 195.3 concerning Certification of Pain Management Clinics, 195.4 concerning Minimum Operational Standards for the Treatment of Pain Patients, and 195.5 concerning Audits, Inspections, and Investigations are being adopted with non-substantive changes to the proposed text as published in the September 9, 2022, issue of the *Texas Register* (47 TexReg 5396). The adopted new rules §§195.1 - 195.5 will be republished.

Section 195.1. Definitions.

New Section 195.1, titled Definitions, provides definitions for three different types of pain: (1) acute, (2) chronic, and (3) post-surgical, post-procedure, persistent non-chronic pain, utilizing language consistent with definitions found in §170.2, for the same three categories of pain. The definitions are intended to clarify how the Board will determine which pain clinics are subject to the application of Chapter 168 of the Texas Occupations Code ("Medical Practice Act" or "Act").

Section 195.2. Gold Designated Practice.

New Section 195.2, titled Gold Designated Practice, creates a new designation of "Gold Designated Practice" available to certain practices that meet higher standards of education and practice. Under the proposed language, those higher practice standards include the utilization of multi-modal, multi-disciplinary approaches to the management of pain, through collaborative, coordinated care agreements, memorandums of understanding, or Medical Home Agreements with primary care physicians or pain management specialists, in addition to prescriptions for opioids or other controlled substances subject to Chapter 168 of the Medical Practice Act. Obtaining the Gold Designated Practice status will mean that a practice will not be the subject of a Board audit or inspection for five years from the date of obtaining the designation, subject to limited exceptions.

Subsection (a) outlines the proposed eligibility requirements for obtaining the Gold Designated Practice status.

Subsection (b) proposes that the designation may be verified by an initial audit and is valid for five years.

Subsection (c) provides that no further Board audits or inspections will be conducted during the five-year "Gold Designated Practice" period, unless a complaint is received or initiated by the board concerning the operation of the practice or operators at the practice, the clinic changes location, or the clinic's ownership structure changes to a majority of new owners.

Subsection (d) states that practices that only treat cancer-related pain, or that only provide palliative, hospice or other end-of-life care, are exempt under the Act from certification requirements as a PMC, but do not qualify for the "Gold Designated Practice" status.

The following non-substantive changes from what was proposed were adopted to this section in response to comments:

(1) the phrase "but not limited to" is added after the phrase "such as" to §195.2(a)(2), to clarify that the list of multimodal treatments and multi-disciplinary practices are not an exclusive list;

(2) the term "psychosocial" was changed to "biopsychosocial" under §195.2(a)(2)(C); and

(3) Medical Home Agreements must be signed by a primary prescriber rather than all providers, in addition to the patient being required to sign, under §195.2(a)(3)(A)(ii) and (3)(B)(i).

The section will be republished.

Section 195.3. Certification of Pain Management Clinics.

New Section 195.3, titled Certification of Pain Management Clinics, sets forth the procedures and requirements for pain clinics subject to the Act and requiring certification by the Board.

Subsection (a) sets forth language stating that any practice meeting the definition of a pain management clinic under Section 168.001 of the Act must be certified by the Board.

Subsection (b) language sets forth initial application procedures and requirements for certification by pain management clinics, addressing filing responsibilities for clinics owned by multiple physicians and documentation requirements.

Subsection (c) provides that review of the application is done by the Board's Executive Director (ED) and notice of the ED decision, including the right to appeal the decision, will be provided to the applicant.

Subsection (d) provides for renewal procedures and requirements for certified pain management clinics.

Subsection (e) states that if there is any investigation pending with the Board against any owner or certificate holder at the time of renewal, then a provisional renewal will be issued until the investigation is resolved. This section was reorganized from proposed subsection (d)(4) to subsection (e), which is a non-substantive change. Remaining sections (f) through (h) represent non-substantive re-lettering.

Subsection (f) provides that initial applications are valid for one year from the date filed, unless expressly extended by Board staff.

Subsection (g) states that all records relating to an application or renewal of a certificate are considered investigative information confidential and privileged under Section 164.007(c) of the Act.

Subsection (h) sets for requirements for certified pain clinics seeking to cancel certification.

Certain typographical errors were also corrected in this section, representing non-substantive changes from what was proposed. The sections will be republished.

Section 195.4. Minimum Operational Standards for the Treatment of Pain Patients.

New Section 195.4, titled Minimum Operational Standards for the Treatment of Pain Patients, sets forth language outlining the requirements for the treatment of pain patients by all practices treating pain, regardless of certification or other status. The rule also provides requirements for Gold Designated Practice physicians treating new pain patients who are transferring care from another pain provider.

Subsection (a) provides the minimum requirements for physicians treating pain patients, including standard of care, medical records, pain contracts, and monitoring requirements.

Subsection (b) sets forth requirements for Gold Designated Practice physicians treating new pain patients who are transferring care from another pain provider and provides that the new physician may provide only a one-time 30-day maximum non-refillable prescription for pain.

Non-substantive changes in response to comments were adopted to §195.4(b)(1)(C), so that a physician must request medical records from the prior treating physician(s) within 15 business days of seeing the patient, rather than being required to obtain the records within 15 days of seeing the patient.

Corresponding non-substantive changes were adopted to §195.4(b)(3), so that a physician must perform certain tasks prior to prescribing additional medications beyond the one-time prescription at the initial visit, if the requested medical records are not received within 15 business days of the date of request, rather than the date of the initial visit.

Further non-substantive changes were adopted to §195.4(b)(3)(B) in response to comments, adding the phrase "if applicable" to the requirement that diagnostic testing be ordered, and results obtained to verify pain sources or etiology. Section 195.4 will be republished.

Section 195.5. Audits, Inspections and Investigations.

New Section 195.5, titled Audits, Inspections, and Investigations, outlines processes for Board audits, inspections, and investigations conducted to determine compliance with laws and rules related to pain management clinics, including whether certification is required for pain clinics lacking certification. The rule outlines the grounds for inspections and possible outcomes.

For Board audits, the adopted language provides that the scope of review will cover a total of 30 patients records, with a combination of new patients seen in one of the last two calendar months and established patients seen in the previous six calendar months with a minimum of 10 records for each type. This represents a non-substantive change adopted in response to written comments received. The section will be republished.

For Board inspections, the rules' adopted scope will cover records on patients seen during two calendar months out of the previous eight months from the date of the inspection.

For Board investigations, the adopted rules indicate that they are complaint-generated and will be conducted in a manner consistent with board rules governing investigations.

The Board received eight comments regarding the proposed new rules to §§195.1 - 195.5. A summary of the comments relating to §§195.1 - 195.5, and the Board responses, are as follows:

(1) Texas Academy of Physician Assistants (TAPA)

Comment No. 1:

TAPA recommends a change to the definition of "post-surgical, post-procedure, persistent non-chronic pain" in §195.1. They recommend the definition read "chronic (or persistent) postoperative pain (CPOP) is a potentially devastating outcome from an otherwise successful surgical procedure. Patients experience pain (2-10% of the time of severe intensity) long after they have healed from the surgical insult."

Board Response:

The Board declines to make the recommended change to the definition of "post-surgical, post-procedure, persistent non-chronic pain." The definition proposed in §195.1 more clearly explains this type of pain. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 2:

TAPA recommends the inclusion in §195.2 of Physician Assistants and Nurse Practitioners.

Board Response:

The Board declines to make the recommended changes, as this section deals with pain management clinics. These clinics must be operated by a physician or physicians with certain certifications or specialties, based on the definition of operator in §168.001 of the Act. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 3:

In subsection (b) of §195.3, TAPA requests the addition of non-physician practice owners to the list of individuals who are permitted to complete the application paperwork. Additionally, TAPA requests the term "midlevel" in subsection (b)(2)(E) be replaced with "Physician Assistant and Nurse Practitioner," as they believe the term midlevel is vague and not defined in Texas code.

Board Response:

The Board does not agree that non-physician practice owners should be included in the list of those who are permitted to complete application paperwork. However, the Board does agree that the term "midlevel" should be replaced. Therefore, in response to this comment, the Board has made non-substantive changes to subsection (b)(2)(E) for consistency with subsection (b)(2)(D).

Comment No. 4:

TAPA suggests the number of CME hours for PAs in pain management clinics should be reduced in subsection (d) of §195.3, since the acts of a PA are delegated and supervised by a physician.

Board Response:

The proposed rule requires at least ten hours of CME related to pain management in the preceding two years. The Board believes this is an appropriate amount of CME and is not unreasonable or overly burdensome. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 5:

In subsection (e) of §195.3, TAPA suggests a clinic should be allowed to cancel its certificate without reason. Additionally, TAPA suggests that if a clinic withdraws its certification, there should be a waiting period of at least two years before being able to reapply.

Board Response:

The Board disagrees and declines to make changes in response to this comment.

Comment No. 6:

TAPA suggests that §195.4(a) should include Physician Assistants and Nurse Practitioners in addition to Physicians, as PAs and NPs are also treating these patients.

Board Response:

Because the physician maintains ultimate responsibility over treatment of the patient, the Board declines to make changes in response to this comment.

Comment No. 7:

TAPA recommends that §195.4 include a timeline to send patient records to/from a Gold Designated Practice. For example, if a new practice has 15 days to request medical records and is only able to prescribe for 30 days, TAPA suggests the time limit to transmit patient records be within 15 calendar days.

Board Response:

The Board's non-substantive changes to §195.4(b)(1)(C) and (b)(3) address concerns about timing of a treating physician requesting medical records from a previous treating physician. If records are not provided by the previous treating physician, the new treating physician can continue treating the patient by complying with the requirements of subsection (b)(3). Therefore, the Board declines making any changes in response to this comment.

Comment No. 8:

TAPA points out that §195.5(b)(5)(B) lists "patient population analysis, including review of patients coming from outside the immediate geographic location of the clinic." (This comment erroneously listed "Subsection (2)E)" as the citation for this comment, but it appears the comment refers instead to subsection (b)(5)(B).) TAPA's position is that there is no current definition of "immediate geographic location," which makes the analysis subjective.

Board Response:

The Board intends to allow some flexibility in this area. Therefore, the Board declines to make any changes in response to this comment.

(2) Chronic Illness Advocacy & Awareness Group, Inc.

Comment No. 1:

Chronic Illness Advocacy & Awareness Group, Inc. asks that the term "medical home agreement," found in §195.2(a)(2), be defined.

Board Response: The Board declines to add a definition for "medical home agreement," as it is a commonly understood term in the medical community.

Comment No. 2:

Chronic Illness Advocacy & Awareness Group, Inc. expressed concern that §195.2(a) requires gold standard practice patients to be weaned from all pain medications and whether the patients could be fired for refusing certain multimodal treatment procedures, such as spinal injections.

Board Response:

The rules do not require chronic pain patients receiving treatment at gold standard practice settings to be weaned from all medications. The intent of the rules is to increase patient safety and access to legitimate chronic pain treatment and multi-modal approaches, in addition to the use of appropriate prescriptions for pain medication. Physicians who practice in gold standard practice settings will continue to have the discretion to prescribe appropriate prescriptions for pain medications as part of their treatment plans, as well as to utilize multi-modal and multidisciplinary treatment methods. The language under §195.2 is sufficiently clear as to this intent, and the Board declines to implement the requested changes.

Comment No. 3:

Chronic Illness Advocacy & Awareness Group, Inc. notes the use of the terms "tapering and weaning" under §195.2(a)(2)(B) and expressed concerns about the safety risks to patients presented by having pain medications stopped suddenly without tapering, or tapering pain medications too quickly. The commentor recommended that the rules address such practices.

Board Response:

The intent of the rules is to increase patient safety and access to legitimate chronic pain treatment and multi-modal approaches, in addition to the use of appropriate prescriptions for pain medication. Physicians are required to meet the standard of care in any tapering or weaning practices. The language under §195.2 is sufficiently clear and the Board declines to implement changes.

Comment No. 4:

Chronic Illness Advocacy & Awareness Group, Inc. requests a definition for the term "motivational interviewing" used under §195.2(c). The commentor suggests that the section include the term "biopsychosocial," rather than just "psychosocial," stating that "it gives the appearance that pain is being treated increasingly like a psych issue rather than a physical one."

Board Response:

The Board declines to add a definition for "motivational interviewing," as it is a commonly understood term in the medical community. The board agrees that "biopsychosocial" is an accurate term and adopts the rules with that non-substantive change.

Comment No. 5:

Chronic Illness Advocacy & Awareness Group, Inc. recommends that the rules require standardized pain agreements, noting that the terms of such agreements vary among physicians. The commentor further recommends that the rules adopt a patient bill of rights prohibiting the termination of patient care without providing for a "taper plan" or "bridge meds."

Board Response:

The Board declines to add language requiring standardized pain agreements or adopting a patient bill of rights. While pain agreements must establish and inform the patient of the physician's expectations that are necessary for patient compliance, and outline patient responsibilities if the treatment plan includes extended drug therapy, the rules permit some flexibility in the language and terms used. As stated under §195.4(a)(2), physicians who treat chronic pain are required to meet the standard of care, including when terminating patient care, which would require ensuring the patient has sufficient notice of the termination and continuity of

care for an appropriate period prior to the termination being effective. The Board declines to add the suggested language.

Comment No. 6:

Chronic Illness Advocacy & Awareness Group, Inc. expressed concern that the rules had the goal of limiting the prescribing of pain medication, rather than to increase patient access to appropriate pain prescribing. The commentor's position is that the gold standard practice model and use of multi-modal treatments are better suited for patients who do not have severe and "long term" pain.

Board Response:

The intent of the rules is to increase patient safety and access to legitimate chronic pain treatment and multi-modal approaches, in addition to the use of appropriate prescriptions for pain medication. Physicians who practice in gold standard practice settings will continue to have the discretion to prescribe appropriate prescriptions for pain medications as part of their treatment plans. The language under §195.2 is sufficiently clear as to this intent and the Board declines to implement changes.

(3) Texas Pain Society (TPS)

Comment No. 1:

For §195.2(a)(2)(A) - (B), outlining certain practice standards that would qualify a practice for a Gold Designated Practice designation, TPS recommends adding the phrase "but not limited to" to clarify that the list of standards was not exclusive. TPS further recommends removing topical creams or patches, computer-based training pain coaching, massage, and exercise or movement from the list of recognized multimodal and multi-disciplinary treatment methods that would qualify a practice for the Gold Designated Practice designation, stating that such methods are "far too easy for a pill mill to abuse."

TPS further recommended that the American Board of Interventional Pain Physicians certification be included in the list of specialty board certification that would qualify a practice for Gold Designated Practice under §195.2(a)(3)(A) - (B).

Board Response:

The Board appreciates TPS's comment. The Board agrees with adding the phrase "but not limited to" for clarification and adopts the rules with the non-substantive change. The Board disagrees with removing the methods discussed by TPS. Such methods are important to providing innovative and effective ways for physicians and patients to manage pain and have been recognized by medical professionals and various entities, including the Health and Human Services Pain Management Best Practices Inter-Agency Task Force.

The Board declines to add ABIPP as a recognized subspecialty certification that would qualify a practice for a Gold Designation Practice status, as ABIPP has not traditionally been recognized under Texas law for the purposes of licensure eligibility or otherwise. The Board's recognition is for the limited purpose of permitting advertising of the specialty certification.

Comment 2:

For §195.4(a)(2), relating to the minimum operational standards for the treatment of pain patients would require following the standard of care, TPS recommends adding the phrase "as outlined in TMB rule 170", and deleting (a)(3), which sets forth certain documentation, pain contract, and monitoring requirements, opining that Chapter 170 sets forth the standard of care for the topic of treating pain and that a reference to the rule would be more efficient. TPS made the same recommendation for 195.4(b), stating that documentation and PMP check requirements should be replaced with a reference to adhering to the requirements under Chapter 170.

Board Response:

The Board disagrees that Chapter 170 outlines the standard of care for the treatment of pain. It is correct that Chapter 170 sets forth certain responsibilities on the part of the patient and physician with respect to pain management. Further, Chapter 170 will be under review in the future, and possibly combined with Chapter 195.

Therefore, the Board declines to adopt the recommended change.

Comment 3:

For §195.4(b)(1)(C), TPS recommends eliminating the requirement that new treating physicians for patients transferring their care to a Gold Designated Practice *obtain* medical records within 15 days of seeing the patient and change the rule so that such physicians are required to *request* such records within a 15-day time period. TPS opined that records may not always be available, due to circumstances outside of the patient and the new treating physician's control.

Board Response:

The Board agrees that the rule's proposed language requiring a physician to obtain such records does not account for reasonable circumstances in which it may not be possible to obtain those records and may inappropriately burden patients. Changing the term "obtain" to "request" will represent a non-substantive change. Therefore, the Board adopts the rule with the non-substantive amendment.

The Board also notes that non-substantive changes adopted §195.4(b)(1)(C) would require a change to §195.4(b)(3), so that the timeframe for receiving copies of prior treating records is tied to the date of request, and not date of initial visit, as originally proposed. Therefore, the Board adopts non-substantive changes to §195.4(b)(3), so that the triggering deadline requiring that certain steps be completed is tied to the date of request and not initial visit.

Comment 4:

TPS recommends deleting §195.4(b)(3), which outlines requirements that new treating physicians are required to take if the requested medical records are not received within business days after the initial visit, including diagnostic testing and drug testing, before any prescriptions are issued beyond a one-time 30-day maximum non-refillable prescription for pain medications. TPS states the position that diagnostic testing is not the standard of care, nor is it required in Chapter 170 of the board rules and may force physicians to order tests that are not covered by insurers. TPS notes that physicians regularly treat patients who do not have treatment records from previous providers, and documentation of an attempt to obtain such records should suffice.

Board Response:

The Board disagrees. The rule is designed to ensure that the new treating physician obtains all relevant information needed to formulate an accurate diagnosis and appropriate treatment plan before providing more prescriptions for pain medication.

However, the Board agrees that diagnostic testing should not be mandated in all cases. Whether diagnostic testing should be ordered will depend on the standard of care and the particular circumstances for each patient.

Therefore, the Board adopts the rule with an added non-substantive phrase "as applicable", with respect to the requirement for drug testing under §195.4(b)(3).

Comment 5:

For §195.5, TPS recommended providing clearer metrics on how patient records will be selected during an audit and defining more clearly how new and established patients are defined. TPS requested that the rule outline the parameters for staff's selection of records, to ensure consistency by staff. Finally, TPS recommended changing §195.5(a)(2)(C) so that a combined five patient records would be required, rather than 60 patient records, stating that the rules as currently proposed threaten to overly burden legitimate pain practices and waste TMB resources. TPS also recommended including in the audit records related to referrals, procedure notes, procedure logs, prior authorization notes, and consultation notes.

Further, TPS suggested placing Gold Designated Practices on a "fast track" process if subject to a complaint that would trigger an audit or investigation.

Board Response:

The Board disagrees that five patient records would provide sufficient information for the purposes of an audit but agrees that a lower number than 60 would be sufficient. The Board disagrees that Gold Designated Practices should be placed on a "fast-track" process if becoming the subject of a complaint that would trigger an audit or investigation, as the agency has limited resources and the current timelines for completing audits are sufficient.

The Board agrees, however, that the rules should provide clearer parameters with respect to what records will be requested during an audit, and agrees with TPS's suggestions to include referrals, procedure notes, procedure logs, consultation notes, and prior authorization documentation. The rules are adopted with a non-substantive change amending the proposed rule so that one specific set of records are outlined in §195.5(a)(3). The set of records obtained will require a total of 30 patients records, with a combination of new patients seen in one of the last two calendar months and established patients seen in the previous six calendar months with a minimum of 10 records for each type. This language reduces the proposed number of records, and mirrors proposed requirements for a combination of new and established patients seen in a specific time period, and therefore is a non-substantive change.

(4) Kriegel & Associates, Interdisciplinary Pain Management Specialists

Comment No. 1:

Kriegel & Associates, Interdisciplinary Pain Management Specialists expressed support for "building a quality assurance process into the field of pain treatment." He points out that The Commission for Accreditation of Rehabilitation Facilities (CARF) implemented accreditation standards in June 2022 that he believes are comprehensive and extremely rigorous.

Board Response:

The Board appreciates the rigorous accreditation standards established by CARF. However, the Board does not believe reliance on a private organization's standards would fulfill the regulatory role the Texas Legislature intended for the Board. Therefore, the Board declines to make any changes in response to this comment

(5) Commentor 1

Comment No. 1:

Commentor expressed support for the proposed rules. However, she pointed out that some patients may not have access to a Gold Designated clinic within driving distances, but one of the criteria for inspections (in §195.5(b)(5)(B)) includes a "review of patients coming from outside the immediate geographic location of the clinic." Ms. McGarity believes this criterion is concerning, given the number of patients who travel a great distance to find a specialist willing to accept them.

Board Response:

The Board understands this concern but does not intend to make patient travel distance in and of itself an indicator of fraud. The Board declines to make any changes in response to this comment

Comment No. 2:

Regarding §195.4(b)(2), the commentor expressed concern about the provision for a single 30-day continuing "bridge" prescription for a new patient. She suggests a longer time like 60 or 90 days to more realistically accommodate situations patients face, such as limited availability of appointments, travel distance required, and patients' work/family responsibilities.

Board Response:

The Board believes that 30 days is an adequate time period for this "bridge" period. This would also be consistent with other rules dealing with continuity of care. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 3:

Commentor pointed out guidance published by the states of Washington and Minnesota that protect patients from unsafe tapering practices. She states that many entities incentivize tapering and discontinuation of opioid medication, while very few entities measure outcomes of tapering on patients' quality of life. She encourages the Board to publish additional guidance, similar to the language of Washington and Minnesota that hard maximum dosage limits and mandatory across-the-board taper policies are not a standard of care in Texas.

Board Response:

The Board recognizes the importance of patients' quality of life and does not intend to incentivize unsafe tapering practices or hard maximum dosage limits. However, the Board does not believe that this rule is the place to express such sentiments, so the Board declines to make any changes in response to this comment.

(6) Texas Medical Association (TMA)

Comment No. 1:

TMA opines that §195.1's definitional language inappropriately singles out opioid prescriptions, perpetuating the stigma that the prescription of opioids is a problem, and minimizing the importance of valid opioid prescriptions to treat pain. TMA further

states that the proposed rule only uses opioid prescriptions as a criterion for potential inspection or certificate, even though Chapter 168 also includes prescriptions for benzodiazepines, barbiturates, and carisoprodol in determining certification requirements.

Board Response:

The Board disagrees that the definitional section inappropriately singles out opioid prescriptions. Pain management clinic certification requirements under Chapter 168 of the Texas Occupations Code were put into place to decrease overdose deaths, and opioid prescriptions are one of the primary drivers of overdose deaths. The Board declines to make requested changes to this section.

Comment 2:

TMA states support for the rule's proposed Gold Designated Practice status. TMA requests a broader application of §195.2's eligibility for Gold Designated status so that more exempt pain clinics would be able to obtain the status, so that clinics with a majority of physicians with specialty certification in an area of practice other than pain management be eligible for the status.

TMA states support for the rule's proposed Gold Designated Practice status.

TMA further opines that there is redundancy in §195.2(a)(3)(B)'s requirement that a certified pain management clinic operated by physicians who previously held or are eligible to hold certification in pain management consult with a pain specialist, and requests to eliminate that requirement.

Board Response:

The Board declines to make the requested changes. The Board disagrees that encouraging a specialty consult for physicians who do not currently hold specialty certification in pain management would be redundant. The Board disagrees that the rules providing for Gold Designation Practice status should be expanded to practices operated by a majority of physicians who hold specialty certification in an area other than pain management. The Gold Designation status represents the highest bar for clinics to achieve and specialty certification recognized should reflect physician specialization that will provide the most expertise and benefits to patients seeking treatment for pain management.

Comment 3:

TMA asserts that medical home agreements under §195.5(a)(3) should not require signatures by all treating providers. TMA requests that the proposed rule be amended so that medical home agreements require signature by patients only, or if providers as well, only prescribing providers. 195.2(a)(3) medical home agreements should not require signature of all providers. TMA asserts that it is the convention to only require patient signatures on such agreements. TMA also requests that other like agreements be recognized for the purpose of Gold Designation status.

Board Response:

The Board agrees with the recommendation that not all providers be required to sign the agreements. Therefore, the Board adopts the non-substantive change requiring only the primary prescriber to sign the agreement, in addition to the patient.

Comment 4:

TMA further requests that the Board consider expanding the Gold Designated Status to all exempt entities under Texas Occupations Code Section 168.002, including hospitals, including ER settings.

Board Response:

The Board declines to expand the status to all exempt entities such as hospitals, including ER settings. The pain medication provided in those settings are for acute and time-limited issues and are unlikely to involve ongoing care that will involve medical home agreements, collaborative care agreements, and multimodal or multi-disciplinary treatments. The point of the Gold Designated Practice status is to recognize the highest bar being met with respect to the ongoing pain management treatment, and not simply to recognize that a setting is exempt from certification requirements.

Comment 5:

TMA recommends changing 195.2(a)(3)(A)(i) so that it refers to other forms of treatment "with the issuance of a prescription", rather than "besides qualifying pain management prescriptions to a majority of the patients at the clinic." TMA opines that the proposed language may unintentionally and inappropriately narrow who qualifies for gold designated status.

Board Response: The Board disagrees that the proposed language isn't clear and declines to adopt the requested changes.

Comment 6:

TMA recommends making several typographical and grammatical changes to §195.3:

Change "provide" to "providing the following documents" in subsection (b)(2);

Change "proof of ownership of the clinic that may include filings..." to "proof of ownership of the clinic, which may include filings..."in subsection (b)(2)(A);

Change "payment of the required filing fee" to "proof of payment of the required filing fee" in subsection (b)(2)(F);

In subsection (d), we recommend changing (d)(4) into a separate standalone subsection, either as (d-1) or (e).

Board Response: The Board agrees with the recommendations and adopts the rules with the non-substantive amendments making typographical and grammatical corrections. Further, the Board adopts the rules re-lettering subsection (d)(4) to subsection (e); and re-lettering remaining sections accordingly.

Comment 7:

TMA asserts that the §195.4's scope should be limited to chronic pain patients and not all pain patients. TMA states that position that imposing requirements such as random drug testing on acute pain patients would cause confusion and impose unnecessary requirements.

TMA also opposes requiring that pain contracts be made a part of the patient's medical record and requiring drug testing results and other forms of monitoring be made a part of the regular part of the patient's medical record, stating that such requirements are not mandated by statute and will unnecessarily add to physician's administrative burdens. Finally, TMA requests that language be added so that the 30-day prescription of medication permitted under §195.4(b)(2) be limited to prescriptions for one of the medications listed under Section 168.001(1) of the Texas Occupations Code.

Board Response:

The Board disagrees with the comment. The rules should apply to all providers who treat pain and the requirements outlined do not exceed that which is required. Pain contracts and different forms of treatment compliance monitoring are vital to a complete medical record. The limitation allowing only one prescription for 30-day maximum non-refillable prescription of pain medication at the initial visit should apply more broadly than just to the list of medications under Section 168.001(1) of the Texas Occupations Code. Therefore, the Board declines to adopt the requested changes.

Comment 8:

TMA requests that the rules be amended to provide clarification that exempt entities do not have to show more than what is necessary to demonstrate it is an exempt entity.

TMA further requests that for audits, that one method of record selection be used. One option that TMA suggests is looking at only new patients during a two-to-three-month calendar window to see whether a majority of patients received treatment other than pain medication; or alternatively, that a random sample of patients be selected, with a lookback to the initial encounter for each of those patients to determine if a majority of those patients received treatment other than just pain medication.

TMA also requests that the rules specify that the clinics will have the opportunity to provide documentation to dispute a finding made based upon records obtained in an audit.

For inspections, TMA requests that the rules include clarification that an inspection does not apply to an exempt entity and also requests that the records obtained be limited to either 1) a sample of new patients during the two to three calendar month window or 2) a sample of random patients in a two to three calendar month window with a lookback period to the initial encounter for those patients.

TMA also requests that the list of factors that will trigger an inspection be exclusive and not open-ended. TMA also disagrees with one factor, reports from the Pharmacy Board of multiple prescribing providers, which may trigger an inspection. TMA believes that such reports should trigger an audit instead of an inspection, to account for those circumstances in which the provider had no reason to discover the other providers through a PMP check or otherwise.

Finally, TMA asserts that law enforcement involvement at a pain clinic should not trigger an inspection, as currently proposed in the rules, unless it relates to pain management.

Board Response:

The Board agrees that the rules should provide clearer parameters with respect to what records will be requested during an audit. The rules are adopted with a non-substantive change amending the proposed rule so that one specific set of records are outlined in §195.5(a)(3). The set of records obtained will require a total of 30 patients records, with a combination of new patients seen in one of the last two calendar months and established patients seen in the previous six calendar months with a minimum of 10 records for each type. This language reduces the proposed number of records, and mirrors proposed requirements for a combination of new and established patients seen in a specific time period, and therefore is a non-substantive change.

The Board disagrees with TMA's remaining comments regarding §195.5, and declines to make the requested changes.

The rules outline clear requirements regarding the basis for an audit, which is to determine whether certification is required for a pain clinic under Chapter 168 of the Act, and that would not require showing more than what is necessary to demonstrate that a practice is an exempt entity. Clinics will have the opportunity to provide a response to a Board finding that certification is necessary, which may include further documentation.

For inspections, the Board declines to make the requested change limiting the type of records that may be obtained to one of the requested categories. Inspections involve a higher level of scrutiny, and the category proposed, patients seen during two calendar months out of the previous eight months from the date of the inspection, will provide an accurate understanding of whether certification is required. Further, the Board declines to adopt changes stating that exempt entities will not be inspected, as the point of an inspection is to determine compliance with Chapter 168 of the Act, which includes whether certification is required, or whether an entity is exempt.

The Board declines to provide an exclusive list of factors that will trigger an inspection. There may be additional relevant factors outside of the list provided for under the rules, and the Board should not be required to amend the rules each time discovering relevant information that isn't specifically accounted for under the rules, in order to conduct a needed inspection. That would waste public resources and hamper the Board's ability to protect the public's health and welfare.

The Board disagrees that reports from the Pharmacy Board of multiple prescribing providers should only trigger an audit and not an inspection. Reports of multiple prescribing providers is an important red flag that a physician may not be in compliance with the laws pertaining to prescribing controlled substances, including checking the Prescription Monitoring Database prior to prescribing certain controlled substances, as required under the Health and Safety Code.

Finally, the Board disagrees with TMA's position that the category of law enforcement reports received about providers or patients that may trigger an inspection is too broad and should be limited to reports related to pain management. Because certain reports about pain management providers or patients may lack clarity, adding that specific limiting phrase "related to pain management" may inappropriately limit the Board's ability to inspect a practice, thereby unduly weakening its ability to protect the public's health and welfare. The Board declines to make the requested change.

(7) Commentor 2

Comment No. 1:

Commentor 2 raised concern about ambiguity in §195.3 for d/b/a practices that consist of unique separate legal entities. He questions whether the d/b/a would be considered to be one practice owned by multiple physicians under the rule or whether they would be considered to be separate practices.

Board Response:

This comment poses a legal question beyond the scope of rulemaking. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 2:

Commentor questions the meaning of "majority" in §195.1.

Board Response:

The Board believes the term "majority" is self-explanatory and has common meaning in §195.1. The Board declines to make any changes in response to this comment.

Comment No. 3:

Commentor 2 seeks clarification of the requirements in §195.2(a)(3)(B) that the certified pain management clinic be operated by physicians who previously held an ABMS or AOA Board-certification or sub-specialty in pain management or hold an ABMS or AOA Board-certification in an area that is eligible for a pain management subspecialty. For example, the American Board of Family Medicine offers a Certificate of Added Qualifications (CAQ) in Pain Medicine that became available to qualifying family physicians in 2003. The commentor raises the issue of whether this CAQ would meet the rule's requirement for eligibility for a pain management subspecialty.

Board Response:

The Board believes the term "Board- certification" is self-explanatory in §195.2. This comment poses a legal question beyond the scope of rulemaking. Therefore, the Board declines to make any changes in response to this comment.

Comment No. 4:

Regarding §195.4(b)(1), the commentor expressed concern about the requirement for a new treating physician at a Gold Designated Practice to document an initial problem-focused examination. He states that this examination is not necessary for all patients. For example, surgeons will refer patients to him to manage patient's perioperative pain, so he has traditionally used the surgeons' documentation of the problem and planned procedure as justification for why medications were needed. Additionally, for patients with cancer or sickle cell or osteogenesis imperfecta, the referral documentation that confirms the diagnosis is adequate to justify the need for chronic pain medications. He asks whether an initial problem-focused exam is truly universally indicated for every new patient that presents to a Gold Designated Practice.

Board Response:

The Board believes that the examination is warranted and thus declines to make any changes in response to this comment.

Comment No. 5:

Also regarding §195.4, the commentor points out that the requirement to obtain medical records from a prior treating physician within 15 days of seeing the patient can be challenging. He asks for clarification whether there is some level of effort that is acceptable in attempting to obtain medical records or whether there is a defined process for documenting non-compliance by the previous treating physician.

Board Response:

The Board agrees that the rule's proposed language requiring a physician to obtain medical records from a prior treating physician does not account for reasonable circumstances in which it may not be possible to obtain those records and may inappropriately burden patients. Therefore, the Board adopts the rule with the non-substantive amendment of changing the word "obtain" to "request."

The Board also notes that non-substantive changes adopted §195.4(b)(1)(C) would require a change to §195.4(b)(3), so that the timeframe for receiving copies of prior treating records is tied to the date of request, and not date of initial visit, as originally proposed. Therefore, the Board adopts non-substantive changes to §195.4(b)(3), so that the triggering deadline requiring that certain steps be completed is tied to the date of request and not initial visit.

Comment No. 6:

Finally, the commentor asks that consideration be given to changing renewal from 180 days to 60 days before expiration of a clinic's certificate. Additionally, he asks that initial applications be considered valid for three years instead of one year, due to the administrative burden and time for registered pain management clinics.

Board Response:

The Board disagrees with the suggested timelines. First, the 180 days referenced in §195.3(d) refers to the time after the expiration of the clinic's certificate, so it refers to a grace period after expiration. There is no timeline before the expiration of a clinic's certificate in which the clinic must renew. Additionally, the Board does not believe that it is prudent for applications be considered valid for three years, as information would be stale after a year and not reliable. Therefore, the Board declines to make any changes in response to this comment.

(8) Commentor 3

Comment No. 1:

Commentor 3 applauds the Board's efforts to build in quality assurance to the regulation of pain management clinics. He urges the Board to consider requiring adherence to CARF standards as part of the Gold Designated Practice status defined in the proposed rules.

Board Response:

The Board appreciates the rigorous accreditation standards established by CARF. However, the Board does not believe reliance on a private organization's standards would fulfill the regulatory role the Texas Legislature intended for the Board. Therefore, the Board declines to make any changes in response to this comment

Two individuals appeared to testify at the public hearing on October 14, 2022, regarding new §§195.1, 195.2, 195.3, 195.4, and 195.5.

22 TAC §§195.1 - 195.4

The repeals are adopted under the authority of Texas Occupations Code §153.001, which provides authority for the Board to adopt rules necessary to administer and enforce the Medical Practice Act and to adopt rules necessary to regulate and license physicians. The repeals are also adopted pursuant to §168.051 of the 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 October 20, 2022.

TRD-202204151

Scott Freshour
General Counsel
Texas Medical Board
Effective date: November 9, 2022
Proposal publication date: September 9, 2022
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22 TAC §§195.1 - 195.5

The new sections are adopted under the authority of Texas Occupations Code §153.001, which provides authority for the Board to adopt rules necessary to administer and enforce the Medical Practice Act and to adopt rules necessary to regulate and license physicians. The new sections are also adopted pursuant to §168.051 of the Texas Occupations Code.

§195.1. Definitions.

Pain management clinics at which a majority of patients are treated for chronic pain are subject to Chapter 168 of the Act, unless otherwise exempted. In determining if the clinic is treating a majority of patients for chronic pain, one of the primary indicators is the prescribing of opioids. The Board will utilize the following definitions in making that determination:

(1) Acute pain--the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time limited to no later than 30 days from the date of the initial prescription for opioids during a period of treatment related to the acute condition or injury. Acute pain does not include, chronic pain, pain being treated as part of cancer care; pain being treated as part of hospice or other end-of-life care; pain being treated as part of palliative care; or post-surgical, post-procedure, or persistent non-chronic pain.

(2) Chronic pain--pain that is not relieved with acute, post-surgical, post-procedure, or persistent non-chronic pain treatment. This type of pain is associated with a chronic pathological process that causes continuous or intermittent pain for no less than 91 days from the date of the initial prescription for opioids. Medical practices treating this type of pain patient may be subject to Chapter 168 of the Act.

(3) Post-surgical, post-procedure, persistent non-chronic pain--pain that occurs due to trauma caused by the surgery or procedure; or an underlying condition, disease, or injury causing persistent non-chronic pain. These types of pain last 90 days or less, but more than 30 days, from the date of initial prescriptions for opioids during a period of treatment.

§195.2. Gold Designated Practice.

(a) A clinic may apply to be designated as a "Gold Designated Practice." In order to be eligible for a "Gold Designated Practice" status, a clinic must:

(1) a Board-approved application form;

(2) Provide a Medical Home Agreement, written collaborative, coordinated care agreement or memorandum of understanding to provide management and treatments of pain, that describes measures that it provides and may be used for reduction of pain such as, but not limited to:

(A) multimodal treatment such as surgery, injections, pain pumps, osteopathic manipulation, epidurals, trigger point injections, dry needling, and topical creams or patches;

(B) multi-disciplinary practices such as medication assisted tapering and weaning, computer-based training pain coaching, acupuncture, chiropractic, physical therapy, massage, and exercise/movement; or

(C) collaborative care or other behavioral health integration services such as evidenced-based cognitive behavioral therapy interventions for mental health and pain reduction, medication management and opioid weaning, patient-centered education, regular monitoring and assessments of clinical status using validated tools, assessment of treatment adherence, motivational interviewing, and a structured approach to improving the biopsychosocial aspects of pain management; and

(3) In addition to providing a Medical Home Agreement, written collaborative, coordinated care agreement or memorandum of understanding to provide management and treatments of pain described above, the clinic must either:

(A) Meet the standards for exemption under Section 168.002(7) of the Act, including the clinic is operated by a majority of physicians who currently hold or previously held ABMS or AOA Board-certification or subspecialty certification in pain management; and

(i) have a majority of physicians perform or properly supervise delegates in providing other forms of treatment besides qualifying pain management prescriptions to a majority of the patients at the clinic;

(ii) the clinic's providers utilize a Medical Home Agreement signed by the primary prescriber and the patient; or

(iii) have a written collaborative, coordinated care agreement or a memorandum of understanding with the patient's primary physician for treating and managing the patient; or

(B) Be a Certified Pain Management Clinic (PMC) that is operated by physicians who previously held an ABMS or AOA Board-certification or sub-specialty in pain management or hold a ABMS or AOA Board-certification in an area that is eligible for a pain management subspecialty; and

(i) have a Medical Home Agreement signed by the primary prescriber and the patient; or

(ii) a written collaborative, coordinated care agreement or memorandum of understanding providing that each physician who prescribes qualifying prescriptions will consult with a pain specialist for the patient.

(b) The designation may be verified by an initial audit and is valid for five years.

(c) No further audits or inspections will be conducted during the five-year "Gold Designated Practice" period, unless:

(1) A complaint is received or initiated by the Board concerning operation of the clinic or operators at the clinic;

(2) The clinic changes location; or

(3) The clinic's ownership structure changes to a majority of new owners.

(d) Practices that only treat pain patients as part of cancer care, or that provide only palliative care, hospice or other end-of-life care, are exempt under the Act from certification requirements as a PMC, but do not qualify for the "Gold Designated Practice" status.

§195.3. Certification of Pain Management Clinics.

(a) Any clinic meeting the definition of a pain management clinic under Section 168.001 of the Act must be certified.

(b) Certification requires:

(1) a Board approved application filed by a physician owner of the clinic. If there are multiple physician owners, the application must be filed by one of the majority of owners, or if there are no majority owners, then each physician owner is responsible for designating one physician owner to file an application.

(2) providing the following documentation:

(A) proof of ownership of the clinic, which may include filing with county clerks, the Comptroller and Secretary of State, as applicable;

(B) days and hours of operation;

(C) name of medical director;

(D) list of employees, including contract physicians and other healthcare providers, and their applicable education, qualifications, training and professional licenses;

(E) protocols and standing delegation orders issued by licensed physicians to healthcare providers; and

(F) proof of payment of the required filing fee.

(c) The Executive Director (ED) or the ED's designee reviews all applications. After reviewing the applications, the ED will send a notice of determination to the applicant which includes the ED's determination. If the application is denied, then the ED will provide the information regarding the right to appeal.

(d) Before 180 days after the expiration of the clinic's certificate, a clinic seeking renewal must submit:

(1) a Board approved application;

(2) documentation that establishes all providers at the clinic involved in any part of patient care have completed at least ten hours of continuing education related to pain management in the preceding two years; and

(3) the required renewal fees.

(e) if there is any investigation pending with the Board against any owner or certificate holder at the time of renewal, then a provisional renewal will be issued until the investigation is resolved.

(f) Initial applications are valid for one year from the date filed, unless expressly extended by Board staff.

(g) All records relating to an application or renewal of certification are considered investigative information and are confidential under §164.007 of the Act.

(h) A request to cancel a certificate must be accompanied by proof that the clinic no longer meets the definition of a pain management clinic under §168.001 of the Act.

§195.4. Minimum Operational Standards for the Treatment of Pain Patients.

(a) Physicians treating a pain patient must:

(1) Operate in compliance with provisions of all applicable federal and state laws;

(2) Follow the standard of care;

(3) Maintain complete, contemporaneous and legible medical records, in the manner as a non-pain patient, and include documentation of:

(A) monitoring efficacy, daily functionality, description of pain relief;

(B) mandatory PMP checks;

(C) pain contracts, if applicable;

(D) support for billing; and

(E) drug testing results and other forms of monitoring for patient compliance with treatment recommendations.

(b) For pain patients transferring their care to a new treating physician at a Gold Designated Practice, the following applies:

(1) The new treating physician must:

(A) document an initial problem focused exam;

(B) document a PMP check; and

(C) request medical records from the prior treating physician(s) within 15 business days of seeing the patient.

(2) The new physician may provide only a one-time 30-day maximum non-refillable prescription of pain medication at the initial visit.

(3) If the requested medical records are not received within 15 business days after the initial request, the physician must perform the following before issuing any other prescriptions for pain treatment to the patient:

(A) a complete history and physical, including assessment of abuse or diversion potential;

(B) diagnostic testing and obtain the results to verify pain sources or etiology, if applicable;

(C) drug testing; and

(D) a PMP check.

§195.5. Audits, Inspections and Investigations.

(a) Audits.

(1) Audits are non-disciplinary reviews:

(A) conducted as an off-site document review; and

(B) initiated by a Board subpoena request for documents as necessary to determine or verify:

(i) exemption from application of Chapter 168 of the Act;

(ii) need to certify as a PMC; or

(iii) no certification requirement.

(2) A total of 30 patients records will be reviewed during an audit. The relevant portions of the 30 records to be reviewed are the initial visit; last two office visits; referrals; procedures notes/logs; consultation requests; consult notes, and prior authorization records, if any. These records will be a combination of new patients seen in one of the last two calendar months and established patients seen in the previous six calendar months with a minimum of 10 records for each type.

(3) Documents requested may also include those used to verify personnel training, qualifications, and general compliance with Chapter 168 of the Act and related rules.

(4) Upon completion of the audit, the Board will issue a notice of determination to the audited clinic owner. The notice of determination will specify:

(A) Deficiencies, if any; and

(B) If necessary, any corrective actions the clinic must take, including a requirement to apply for certification.

(b) Inspections.

(1) Inspections are non-disciplinary reviews:

(A) done on both certified and non-certified clinics in accordance with Section 168.052 of the Act; and

(B) usually conducted on-site but may also be off-site, as determined by Board staff.

(2) The following patient records will be reviewed during an inspection, as determined by Board staff: patients seen during two calendar months out of the previous eight months from the date of the inspection.

(3) For certified pain management clinics, inspections are conducted to verify compliance with Chapter 168 of the Act and the applicable laws and rules.

(4) For non-certified clinics, inspections are conducted to determine if the clinic is subject to be certified under Chapter 168 of the Act.

(5) In accordance with Section 168.052(b) of the Act, to initiate an inspection the Board has determined the following grounds can be utilized, but are not limited to:

(A) PMP reports;

(B) patient population analysis, including review of patients coming from outside the immediate geographic location of the clinic;

(C) common addresses for multiple patients;

(D) notices to providers from the Pharmacy Board regarding a patient having multiple prescribing providers;

(E) complaints about the clinic and its operation; and

(F) law enforcement reports regarding providers or patients.

(6) Notice of intent to inspect will be provided at least five days in advance unless such timing would compromise the inspection.

(7) Notice of inspection results will be provided in writing to the clinic.

(8) If the inspection determines instances of non-compliance, the Board will determine appropriate action to obtain compliance.

(c) Investigations may be conducted due to a complaint received or initiated by the Board. An investigation will be conducted in accordance with the provisions of this Title and all applicable Board rules.

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 October 20, 2022.

TRD-202204152

Scott Freshour
General Counsel
Texas Medical Board
Effective date: November 9, 2022
Proposal publication date: September 9, 2022
For further information, please call: (512) 305-7016

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 133. HOSPITAL LICENSING
SUBCHAPTER C. OPERATIONAL REQUIREMENTS

25 TAC §133.52

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

New §133.52 is adopted without changes to the proposed text as published in the June 3, 2022, issue of the *Texas Register* (47 TexReg 3225). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

This new section 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 new section 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.

COMMENTS

The 31-day comment period ended July 5, 2022. During this period, HHSC received comments regarding the proposed rules from three commenters, Family Hospital Systems (FHS) and the Patient Choice Coalition (PCC), who submitted their comments jointly, and the Texas Association of Freestanding Emergency

Centers (TAFEC). A summary of comments relating to the rule and HHSC's responses follows.

Comment: FHS and PCC commented that a facility seeking to unfairly profit from a disaster situation is wrong and the public expects to know they are being treated fairly. They expressed concern that §133.52 applies to only a small percentage of hospital-owned or hospital-operated FEMC facilities in Texas because most of these facilities participate in Medicare. FHS and PCC speculated as to whether the upcoming 88th legislature would address unconscionable prices during a pandemic for FEMC facilities participating in Medicare.

Response: HHSC acknowledges this comment and notes that §133.52 aligns with HSC §241.224.

Comment: TAFEC commented that §133.52(d) does not define what accessing a service from an individual's vehicle means and expressed concern that the proposed language may prohibit an FEMC facility from fully compensating for resources an FEMC facility uses to treat a patient, including when an injured patient arrives in a vehicle and cannot safely move inside the facility because of their medical condition. TAFEC suggested amending §133.52(d) to clarify that accessing a service from an individual's vehicle only applies when the patient receives the entirety of the service from the vehicle or the facility's parking lot, does not enter the facility during or immediately after the service, and a licensed physician on-site at the facility determines, based on the patient's condition, removing or transporting the patient would not pose a risk of further injury to the patient.

Response: HHSC declines to revise this subsection in response to this comment because §133.52(d) aligns with the plain meaning of HSC §241.222.

Comment: FHS and PCC requested that HHSC revise §133.52(f)(2) to clarify whether this paragraph prohibits an FEMC from providing discounts to insured individuals who choose to pay out of pocket because the individual's deductible is higher than paying cash.

Response: HHSC declines to revise §133.52(f)(2) in response to this comment because §133.52(g)(2) aligns with HSC §241.224(b)(2) and states §133.52(f)(2) does not prohibit an FEMC facility from accepting full payment for a health care product or service directly from an individual in lieu of submitting a claim to the individual's health benefit plan.

Comment: FHS and PCC requested that HHSC amend §133.52(g)(2) to clarify the term "full payment." FHS and PCC suggested the rule define this term as the discounted cash price because FEMC facilities should have the same flexibility as hospitals to provide patients with the facility's discounted cash price.

Response: HHSC declines to revise §133.52(g)(2) in response to this comment because this paragraph aligns with HSC §241.224(c)(2). HHSC notes §133.52 is only effective during a declared state of disaster.

Comment: TAFEC commented that §133.52(i) contains an escalating series of penalties for §133.52 violations and requested that HHSC clarify how HHSC will determine the number of violations cited to ensure facilities have an opportunity to correct their actions before HHSC imposes more significant penalties. TAFEC suggested HHSC not impose an administrative penalty or other consequence under §133.52 for violations occurring on the same date. TAFEC also suggested adding language to §133.52(i) to clarify HHSC will count a violation as a second or third violation under this subsection only after HHSC makes a final determination on any previous violations and notifies the facility regarding HHSC's determination, and if the new violation occurred at least 15 business days after the violation for which HHSC has made a final determination.

Response: HHSC declines to revise §133.52(i) in response to this comment because §133.52(i) aligns with HSC §241.225.

STATUTORY AUTHORITY

The new section 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; HSC §241.026, which authorizes the Executive Commissioner of HHSC to adopt rules governing development, establishment, and enforcement standards for the construction, maintenance, and operation of licensed hospitals; and HSC §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 Texas Government Code Chapter 418.

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 October 21, 2022.

TRD-202204163
Karen Ray
Chief Counsel
Department of State Health Services
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For further information, please call: (512) 834-4591

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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 Texas Health and Human Services Commission (HHSC) adopts new §509.69, concerning Fees and Prices.

New §509.69 is adopted without changes to the proposed text as published in the June 3, 2022, issue of the *Texas Register* (47 TexReg 3227). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The new section 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 new section 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.

COMMENTS

The 31-day comment period ended July 5, 2022. During this period, HHSC received comments regarding the proposed rules from one commenter, Texas Association of Freestanding Emergency Centers (TAFEC). A summary of comments relating to the rule and HHSC's responses follows.

Comment: TAFEC commented that §509.69(e) does not define what accessing a service from an individual's vehicle means and expressed concern that the proposed language may prohibit an FEMC facility from fully compensating for resources an FEMC facility uses to treat a patient, including when an injured patient arrives in a vehicle and cannot safely move inside the facility because of their medical condition. TAFEC suggested amending §509.69(e) to clarify that accessing a service from an individual's vehicle only applies when the patient receives the entirety of the service from the vehicle or the facility's parking lot, does not enter the facility during or immediately after the service, and a licensed physician on-site at the facility determines, based on the patient's condition, removing or transporting the patient would not pose a risk of further injury to the patient.

Response: HHSC declines to revise this subsection in response to this comment because §509.69(e) aligns with the plain meaning of HSC §254.1555.

Comment: TAFEC commented that §509.69(f) contains an escalating series of penalties for §509.69 violations and requested that HHSC clarify how HHSC will determine the number of violations cited to ensure facilities have an opportunity to correct their actions before HHSC imposes more significant penalties. TAFEC suggested that HHSC not impose an administrative penalty or other consequence under §509.69 for violations occurring on the same date. TAFEC also suggested adding language to §509.69(f) to clarify HHSC will count a violation as a second or third violation under this subsection only after HHSC makes a final determination on any previous violations and notifies the facility regarding HHSC's determination, and if the new violation occurred at least 15 business days after the violation for which HHSC has made a final determination.

Response: HHSC declines to revise §509.69(f) in response to this comment because §509.69(f) aligns with HSC §254.207.

STATUTORY AUTHORITY

The new section 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; HSC §254.101, which authorizes HHSC to adopt rules regarding FEMC facilities; and HSC §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 Texas Government Code Chapter 418.

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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Karen Ray
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Health and Human Services Commission
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For further information, please call: (512) 834-4591

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER A. ACCREDITATION

37 TAC §651.4

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.4 without changes to the text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5755) to remove the College of American Pathologist's ("CAP") Forensic Drug Testing Program and the Substance Abuse and Mental Health Services Administration ("SAMHSA") of the Department of Health and Human Services from the Commission's list of recognized accreditation programs for forensic analysis in Texas criminal actions. The rule will not be republished. Under the revised rule, any laboratory seeking to conduct forensic testing for the primary purpose of determining the connection of evidence to a criminal action may obtain accreditation by ANSI-ASQ National Accreditation Board (ANAB) or the American Association for Accreditation (A2LA). The adoption is made in accordance with the Commission's accreditation authority under Tex. Code. Crim. Proc. art. 38.01§4-d and the Commission's rulemaking authority under Article 38.01 §3-a.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is adopted under Code of Criminal Procedure, Article 38.01 §3-a, which directs the Commission to adopt rules necessary to implement Article 38.01 §4-d, which directs the Commission to create a crime laboratory accreditation program.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.4.

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-202204155
Leigh Marie Tomlin
Associate General Counsel
Texas Forensic Science Commission
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Proposal publication date: September 16, 2022
For further information, please call: (512) 784-0037

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SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.207

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.207 without changes to the text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5757). The Commission adopts the amendments to emphasize the duty for licensees to report any changes in address or employment to the Commission. The rule will not be republished. The amendments are necessary to reflect adoptions made by the Commission at its July 22, 2022 quarterly meeting. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Tex. Code. Crim. Proc. art. 38.01 §4-a(d) to establish the qualifications for a forensic analyst license and the Commission's rulemaking authority under Code of Criminal Procedure, Article 38.01 § 3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are adopted under Tex. Code Crim. Proc. art 38.01 §§ 4-a(d) and 3-a.

Cross reference to statute. The adoption amends 37 Texas Administrative Code §651.207.

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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Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
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For further information, please call: (512) 784-0037

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37 TAC §651.208

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.208 without changes to the text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5761). The adopted amendments clarify that crime laboratory managers must be actively performing forensic casework and participating in any applicable accreditation monitoring requirements, including intra-laboratory or inter-laboratory comparisons, proficiency testing, or observation-based performance monitoring requirements of the laboratory's accrediting body to continue licensure as a forensic analyst or forensic technician and to correct the number of days before a license expires (from 90 to 60 days) that a licensee can renew a forensic analyst license in the Commission's Learning Management System software program. The rule will not be republished. The amendments are necessary to reflect adoptions made by the Commission at its July 22, 2022 quarterly meeting. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 § 4-a, which directs the Commission to adopt rules to establish the qualifications for a forensic analyst license and the Commission's rulemaking authority under Code of Criminal Procedure, Article 38.01 § 3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is adopted under Code of Criminal Procedure, Article 38.01 §§ 4-a(c) and (3)-a.

Cross reference to statute. The adoption amends current rule 37 Texas Administrative Code §651.208.

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 October 20, 2022.

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Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
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Proposal publication date: September 16, 2022
For further information, please call: (512) 784-0037

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37 TAC §651.222

The Texas Forensic Science Commission ("Commission") adopts amendments to rule 37 Texas Administrative Code §651.222, with changes to the text as published in the September 16, 2022, issue of the *Texas Register* (47 TexReg 5763). The rule will be republished. The amendment clarifies that voluntary licensees working at accredited crime laboratories in a forensic discipline not covered by the crime laboratory's scope of accreditation must comply with the same monitoring requirements (including intra-laboratory comparison, inter-laboratory comparison, proficiency testing, or observation-based performance monitoring) of voluntary licensees working in unac-

credited crime laboratories. The amendments are necessary to reflect adoptions made by the Commission at its July 22, 2022 quarterly meeting. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Tex. Code. Crim. Proc. art. 38.01 § 4-a(c) to establish voluntary licensing programs for forensic examinations or tests not subject to accreditation requirements and the Commission's rulemaking authority under Code of Criminal Procedure, Article 38.01 § 3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01.

Government Growth Impact Statement. Leigh M. Tomlin, Associate General Counsel of the Texas Forensic Science Commission, has determined that for the first five-year period, implementation of the proposed amendment will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. Pursuant to the analysis required by Government Code 2001.221(b), 1) the proposed amendments do not create or eliminate a government program; 2) implementation of the proposed amendments do not require the creation of new employee positions or the elimination of existing employee positions; 3) implementation of the proposed amendments do not increase or decrease future legislative appropriations to the agency; 4) the proposed amendments do not require a fee; 5) the proposed amendments do not create a new regulation; 6) the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and 7) the proposed amendments have a neutral effect on the state's economy. The amendments do not expand any mandatory or voluntary forensic analyst licensing requirement under the current programs, but rather provide clarity that voluntary licensees working at accredited crime laboratories in forensic disciplines not covered by the crime laboratory's scope of accreditation must comply with the same accreditation monitoring requirements of voluntary licensees working in unaccredited crime laboratories to remain proficient in their forensic disciplines.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are adopted under Tex. Code Crim. Proc. art 38.01 §§ 4-a(c) and (3)-a.

Cross reference to statute. The adoption amends rule 37 Texas Administrative Code §651.222.

§651.222. Voluntary Forensic Analyst Licensing Requirements Including Eligibility, License Term, Fee and Procedure for Denial of Initial Application or Renewal Application and Reconsideration.

(a) Issuance. The Commission may issue an individual's voluntary forensic analyst license for forensic examinations or tests not subject to accreditation under this section.

(b) The following forensic disciplines are eligible for a voluntary forensic analyst license:

(1) forensic anthropology; and

(2) document examination, including document authentication, physical comparison, and product determination.

(c) Application. Before being issued a voluntary forensic analyst license, an applicant shall complete and submit to the Commission a current forensic analyst license application and provide documentation that he or she has satisfied all applicable requirements set forth under this section.

(d) Minimum Education Requirements.

(1) Document Examination Analyst. An applicant for a voluntary forensic analyst license in document examination must have a high school diploma or equivalent degree or higher (*i.e.,* baccalaureate or advanced degree).

(2) Forensic Anthropologist. An applicant for a voluntary forensic analyst license in forensic anthropology must be certified by the American Board of Forensic Anthropology (ABFA), including fulfillment of any minimum education requirements required to comply with and maintain ABFA certification at the time of the candidate's application for a license.

(3) Foreign/Non-U.S. degrees. The Commission shall recognize equivalent foreign, non-U.S. baccalaureate or advanced degrees. The Commission reserves the right to charge licensees a reasonable fee for credential evaluation services to assess how a particular foreign degree compares to a similar degree in the United States. The Commission may accept a previously obtained credential evaluation report from an applicant or licensee in fulfillment of the degree comparison assessment.

(e) Specific Coursework Requirements.

(1) General Requirement for Statistics. An applicant for any voluntary forensic analyst license must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(2) Forensic Discipline Specific Coursework Requirements.

(A) Document Examination Analyst. An applicant for a voluntary forensic analyst license must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission. No other specific college-level coursework is required.

(B) Forensic Anthropologist. An applicant for a voluntary forensic analyst license in forensic anthropology must be certified by the American Board of Forensic Anthropology (ABFA), including fulfillment of any specific coursework requirements required to comply with and maintain ABFA certification at the time of the candidate's application for a license.

(3) Exemptions from Specific Coursework Requirements. Previously Licensed Document Examination Analyst Exemption. An applicant for a voluntary forensic analyst license previously licensed by the Commission when licensure was mandatory for the discipline is exempt from any specific coursework requirements in this subsection.

(f) General Forensic Analyst Licensing Exam Requirement for Voluntary License Applicants.

(1) Exam Requirement. An applicant for a voluntary forensic analyst license must pass the General Forensic Analyst Licensing Exam administered by the Commission.

(A) An applicant is required to take and pass the General Forensic Analyst Licensing Exam one time.

(B) An applicant may take the General Forensic Analyst Licensing Exam no more than three times. If an applicant fails the General Forensic Analyst Licensing Exam three times, the applicant has thirty (30) days from the date the applicant receives notice of the failure to request special dispensation from the Commission as described in subparagraph (C) of this paragraph. Where special dispensation is granted, the applicant has 90 days from the date he or she receives notice the request for exam is granted to successfully complete the exam requirement. However, for good cause shown, the Commission or its Designee at its discretion may waive this limitation

(C) Requests for Exam. If an applicant fails the General Forensic Analyst Licensing Exam three times, the applicant must request in writing special dispensation from the Commission to take the exam more than three times. Applicants may submit a letter of support from their laboratory director or licensing representative and any other supporting documentation supplemental to the written request.

(D) If an applicant sits for the General Forensic Analyst Licensing Exam more than three times, the applicant must pay a $50 exam fee each additional time the applicant sits for the exam beyond the three initial attempts.

(2) Credit for Pilot Exam. If an individual passes a Pilot General Forensic Analyst Licensing Exam, regardless of his or her eligibility status for a voluntary or mandatory Forensic Analyst License at the time the exam is taken, the candidate has fulfilled the General Forensic Analyst Licensing Exam Requirement of this subsection.

(g) Proficiency Monitoring Requirement.

(1) Requirement for Applicants Employed by an Accredited Laboratory. An applicant who is employed by an accredited laboratory must demonstrate the applicant participates in the laboratory's process for intra-laboratory comparison, inter-laboratory comparison, proficiency testing, or observation-based performance monitoring requirements in compliance with and on the timeline set forth by the laboratory's accrediting body's proficiency monitoring requirements as applicable to the Forensic Analyst's or Forensic Technician's specific forensic discipline and job duties.

(2) Requirement for Applicants Not Employed at an Accredited Laboratory or at an Accredited Laboratory in an Unaccredited Forensic Discipline. An applicant who is employed by an entity other than an accredited laboratory or performs a forensic examination or test at an accredited laboratory in a forensic discipline not covered by the scope of the laboratory's accreditation must demonstrate the applicant participates in the laboratory or employing entity's process for intra-laboratory comparison, inter-laboratory comparison, proficiency testing, or observation-based performance monitoring requirements in compliance with and on the timeline set forth by the laboratory or employing entity's Commission-approved process for proficiency monitoring as applicable to the Forensic Analyst's or Forensic Technician's specific forensic discipline and job duties.

(3) A signed certification by the laboratory or entity's authorized representative that the applicant has satisfied the applicable proficiency monitoring requirements, including any intra-laboratory comparison, inter-laboratory comparisons, proficiency testing, or observation-based performance monitoring requirements in paragraph (1) or (2) of this subsection as of the date of the analyst's application must be provided on the Proficiency Monitoring Certification form provided by the Commission. The licensee's authorized representative must designate the specific forensic discipline in which the Forensic Analyst or Forensic Technician actively performs forensic casework or is currently authorized to perform supervised or independent casework.

(4) Applicants employed by an entity other than an accredited laboratory or performing forensic examinations or tests at an accredited laboratory in a discipline not covered by the scope of the laboratory or employing entity's accreditation must include written proof of the Forensic Science Commission's approval described in (5) of this subsection with the Proficiency Monitoring Certification form required in (3) of this subsection. The applicant must include written documentation of performance in conformance with expected consensus results for the laboratory or employing entity's Commission-approved activities or exercise(s) as applicable to the applicant's specific forensic discipline and job duties in compliance with and on the timeline set forth by the laboratory or employing entity's Commission-approved process for proficiency monitoring.

(5) Applicants employed by an entity other than an accredited laboratory or performing forensic examinations or tests at an accredited laboratory in a discipline not covered by the scope of the laboratory or employing entity's accreditation seeking approval of proficiency monitoring activities or exercise(s) must seek prior approval of the activities or exercise(s) from the Commission.

(h) License Term and Fee.

(1) A Voluntary Forensic Analyst license shall expire two years from the date the applicant is granted a license.

(2) Application Fee. A voluntary Forensic Analyst license applicant or current voluntary licensee shall pay the following fee(s) as applicable:

(A) Initial Application fee of $220;

(B) Biennial renewal fee of $200;

(C) License Reinstatement fee of $220; or

(D) Special Exam Fee of $50 for General Forensic Analyst Licensing Exam, required only if testing beyond the three initial attempts; and

(i) Voluntary Forensic Analyst License Renewal. Renewal of a Voluntary Forensic Analyst License. Applicants for renewal of a Voluntary Forensic Analyst License must comply with §651.208 (Forensic Analyst and Forensic Technician License Renewal) of this subchapter.

(j) Voluntary Forensic Analyst License Expiration and Reinstatement. Expiration and Reinstatement of a Voluntary Forensic Analyst License. A Voluntary Forensic Analyst must comply with § 651.209 of this subchapter (Forensic Analyst and Forensic Technician License Expiration and Reinstatement).

(k) Procedure for Denial of Initial Application or Renewal Application and Reconsideration.

(1) Application Review. The Commission Director or Designee must review each initial application or renewal application and determine whether the applicant meets the qualifications and requirements set forth in this subchapter. If a person who has applied for a voluntary forensic analyst license does not meet the qualifications or requirements set forth in this subchapter and has submitted a complete application, the Director or Designee must consult with members of the Licensing Advisory Committee before denying the application.

(2) Denial of Application. The Commission, through its Director or Designee, may deny an initial or renewal application if the applicant fails to meet any of the qualifications or requirements set forth in this subchapter.

(3) Notice of Denial. The Commission, through its Director or Designee, shall provide the applicant a written statement of the reason(s) for denial of the initial or renewal application.

(4) Request for Reconsideration. Within twenty (20) days of the date of the notice that the Commission has denied the application, the applicant may request that the Commission reconsider the denial. The request must be in writing, identify each point or matter about which reconsideration is requested, and set forth the grounds for the request for reconsideration.

(5) Reconsideration Procedure. The Commission must consider a request for reconsideration at its next meeting where the applicant may appear and present testimony.

(6) Commission Action on Request. After reconsidering its decision, the Commission may either affirm or reverse its original decision.

(7) Final Decision. The Commission, through its Director or Designee, must notify the applicant in writing of its decision on reconsideration within fifteen (15) business days of the date of its meeting where the final decision was rendered.

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 October 20, 2022.

TRD-202204159
Leigh M. Tomlin
Associate General Counsel
Texas Forensic Science Commission
Effective date: November 9, 2022
Proposal publication date: September 16, 2022
For further information, please call: (512) 936-0661

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: 25 TAC §601.5(1)

DISCLOSURE AND CONSENT FOR RADIATION THERAPY

TO THE PATIENT: You have the right to be informed about 1) your condition, 2) the recommended radiation therapy procedure to be used to treat your condition, and 3) the risks related to the radiation therapy procedure. This disclosure is designated to provide you this information, so that you can decide whether to consent to receive the recommended procedure. Please ask your physician/healthcare provider any remaining questions you have before signing this form.

Description of Radiation Therapy Procedure(s)

I voluntarily request my physician [name/credentials] _____and other health care providers to treat my condition, which is:

_____

_____

_____.

I understand that the following radiation therapy procedure(s) are planned for me (specify technique and site):

_____

_____

_____.

I understand that my condition may be treated with external beam radiation therapy alone, with internal radiation implant alone, or with both or in planned combination with surgery and/or chemotherapy.

I agree to the taking of photographs or placing of tattoo or skin marks on me if necessary for treatment.

_____.

Risks Related to Radiation Therapy Procedure(s)

Just as there may be risks and hazards to my health without treatment, there are also risks and hazards related to the procedure(s) planned for me. The chances of these occurring may be different for each patient based on the procedure(s) and the patient's current health.

ALL FEMALES MUST INITIAL: I understand that radiation can be harmful to the unborn child.

[___] I am [___] I could be [___] I am not pregnant.

[___] **INITIAL IF APPLICABLE: I HAVE AN IMPLANTED ELECTRONIC DEVICE** (such as a pacemaker, defibrillator or nerve stimulator). I understand radiation to the device can cause malfunction of the device.

I understand that the risks from radiation therapy may happen during the treatment or shortly after the course of treatment ("early reactions"), or they may occur sometime later ("late reactions"). The risks may be temporary or permanent.

These risks may be made worse if you have received chemotherapy or surgery before, during or after radiation therapy or if you had radiation therapy before to the same area. Risks or early and late reactions which could occur as a result of the procedure(s) are listed below. With few exceptions, these reactions affect only the areas of the body actually receiving the radiation therapy.

Risks for this specific part of the body receiving radiation therapy, which are divided into early and late reactions, include, but are not limited to **[include List A risks here and additional risks if any]:**

_____
_____
_____

Granting of Consent for Radiation Therapy Procedure(s)

By signing below, I consent to the radiation therapy procedure(s) described above. I acknowledge the following:

- I understand this procedure(s) does not guarantee a result of a cure to my condition.
- I have been given an opportunity to ask questions I may have about:

1. Alternative forms of treatment,
2. Risks of non-treatment,
3. Steps that will occur during my procedure(s), and
4. Risks and hazards involved in the procedure(s).

- I believe I have enough information to give this informed consent.
- I certify this form has been fully explained to me and the blank spaces have been filled in.
- I have read this form or had it read to me.
- I understand the information on this form.

If any of those statements are not true for you, please talk to your physician/health care provider before continuing.

_____

PATIENT/OTHER LEGALLY AUTHORIZED REPRESENTATIVE PERSON (signature required)

_____

Print Name Signature

If Legally Authorized Representative, list relationship to Patient: _____

DATE: _____ **TIME:** _____ **A.M./P.M.**

WITNESS:

_____

Print Name Signature

_____

Address (Street or P. O. Box)

_____

City, State, Zip Code

Figure: 25 TAC §601.5(2)

INFORMACIÓN Y CONSENTIMIENTO PARA RECIBIR RADIOTERAPIA

AL PACIENTE: Usted tiene el derecho a ser informado sobre 1) su enfermedad, 2) el procedimiento de radioterapia recomendado para tratar su enfermedad y 3) los riesgos relacionados con el procedimiento de radioterapia. La información que aquí presentamos tiene como fin que usted pueda tomar la decisión de dar o no su consentimiento para recibir esta atención o procedimiento médicos. Antes de firmar este formulario, le recomendamos que consulte con su médico o proveedor de atención médica sobre cualquier otra pregunta que pudiera tener.

Descripción de los procedimientos de radioterapia

De manera voluntaria, solicito a mi médico o proveedor de atención médica [nombre/acreditaciones] _____, así como a otros proveedores de atención médica, que den tratamiento a mi enfermedad que es:

_____

_____

_____.

Entiendo que se han planeado para mí los siguientes procedimientos de radioterapia (especifique la técnica y el lugar):

_____

_____

_____.

Entiendo que mi enfermedad puede ser tratada solo con radioterapia externa, solo con implante, de radiación interna o con ambas, o en combinación con una cirugía o quimioterapia.

Estoy de acuerdo con la toma de fotografías o la colocación de tatuajes o marcas en mi piel si es necesario para el tratamiento.

_____.

Riesgos relacionados con el procedimiento de radioterapia

Al igual que puede haber riesgos y peligros para mi salud si no recibo ningún tratamiento, también existen riesgos y peligros relacionados con el tratamiento o procedimiento que se tiene planeado realizarme. Las probabilidades de que algo de lo anterior ocurra varían en cada persona, ya que dependen de la atención médica o procedimiento y del estado de salud actual del paciente.

TODAS LAS MUJERES DEBEN PONER SUS INICIALES: Entiendo que la radiación puede ser perjudicial para el bebé en desarrollo.

[___] Estoy [___] Podría estar [___] No estoy embarazada.

[___] **INICIALES SI CORRESPONDE: TENGO UN DISPOSITIVO ELECTRÓNICO IMPLANTADO** (como un marcapasos, un desfibrilador o un estimulador neural). Entiendo que la radiación aplicada al dispositivo puede causar un mal funcionamiento del mismo.

Entiendo que los riesgos de la radioterapia pueden ocurrir durante el tratamiento o poco después (reacciones tempranas) o algún tiempo después (reacciones tardías). Los riesgos pueden ser temporales o permanentes.

Estos riesgos pueden empeorar si usted ha recibido quimioterapia o cirugía antes, durante o después de la radioterapia o si ha recibido radioterapia anteriormente en la misma área. A continuación, se enumeran los riesgos o las reacciones tempranas y tardías que podrían producirse como consecuencia del procedimiento o procedimientos. Con pocas excepciones, estas reacciones solo afectan a las áreas del cuerpo que realmente reciben la radioterapia.

Los riesgos para esta parte específica del cuerpo que recibe radioterapia, que se dividen en reacciones tempranas y tardías, incluyen, entre otros [**incluya aquí los riesgos de la Lista A y los riesgos adicionales si los hay**]:

_____
_____
_____

Dar consentimiento para el procedimiento de radioterapia

Mediante mi firma más abajo, doy mi consentimiento para que se me realicen los procedimientos de radioterapia descritos anteriormente. Reconozco lo siguiente:

- Entiendo que estos procedimientos médicos no garantizan la conclusión o la curación de mi enfermedad.
- Se me ha dado la oportunidad de hacer preguntas para aclarar mis posibles dudas sobre:
    1. Tratamientos alternativos
    2. Los riesgos de no recibir ningún tratamiento.
    3. Los pasos que se darán durante los procedimientos médicos o quirúrgicos a los que me someta, y
    4. Los riesgos y peligros que conllevan los procedimientos médicos o quirúrgicos.
- Considero que he recibido suficiente información para dar este consentimiento informado.
- Certifico que se me ha explicado completamente el contenido de este formulario y que sus espacios en blanco han sido llenados.
- He leído este formulario o alguien me lo ha leído.
- Entiendo la información contenida en este formulario.

Si alguna de las declaraciones anteriores no es aplicable a usted, comuníquese con su médico o proveedor de atención médica antes de continuar.

_____

EL PACIENTE/OTRO REPRESENTANTE AUTORIZADO (la firma es obligatoria)

_____

Nombre en letra de molde Firma

Si usted es el representante legalmente autorizado, indique cuál es su relación con el paciente:

_____

FECHA: _____ **HORA**: _____ **A.M./P.M.**

TESTIGO:

_____

Nombre en letra de molde Firma

_____

Dirección (calle y número o apartado postal)

_____

Ciudad, estado y código postal

Figure: 25 TAC §601.9(1)

DISCLOSURE AND CONSENT - ANESTHESIA and/or PERIOPERATIVE PAIN MANAGEMENT (ANALGESIA)

TO THE PATIENT: *You have the right, as a patient, to be informed about 1) the recommended anesthesia/analgesia to be used and 2) the risks related to anesthesia/analgesia. This disclosure is designed to provide you this information, so that you can decide whether to consent to receive anesthesia/analgesia in the perioperative period (meaning shortly before, during and shortly after a procedure). Please ask your physician/health care provider any remaining questions you might have before signing this form.*

Administration of Anesthesia/Analgesia

_____The plan is for the anesthesia/analgesia to be provided by:

Check the planned approach and have the patient/legally authorized representative initial:

(Check one)

_____Anesthesiologist Dr._____[Name] or another anesthesiologist if he/she is not available.
_____Non-Anesthesiologist Physician or Dentist Dr._____[Name].

(Check all that apply, if any)

_____Certified Anesthesiologist Assistant
_____Certified Registered Nurse Anesthetist
_____Resident Physician

Your physician or dentist can explain the different roles of the providers and the level of involvement of the physician or dentist in providing the anesthesia/analgesia.

Types of Anesthesia/Analgesia Planned and Related Topics

I understand that anesthesia/analgesia involves additional risks and hazards. The chances of these occurring may be different for each patient based on the procedure(s) and the patient's current health. I realize the type of anesthesia/analgesia may have to be changed possibly without explanation to me.

I understand that serious, but rare, complications can occur with all anesthetic/analgesic methods. Some of these risks are breathing and heart problems, drug reactions, nerve damage, cardiac arrest (heart stops beating), brain damage, paralysis (inability to move), or death.

I also understand that other risks or complications may occur depending on the type of anesthesia/analgesia. The type of anesthesia/analgesia planned for me and the related risks for that type of anesthesia/analgesia include but are not limited to:

Check planned anesthesia/analgesia method(s) and have the patient/legally authorized representative initial.

☐ _____**GENERAL ANESTHESIA** – injury to vocal cords, teeth, lips, eyes; awareness during the procedure; memory dysfunction/memory loss; permanent organ damage; brain damage.

☐ _____**REGIONAL BLOCK ANESTHESIA/ANALGESIA** - nerve damage; persistent pain; bleeding/hematoma; infection; medical necessity to convert to general anesthesia; brain damage.

Location:_____.

☐ _____**SPINAL ANESTHESIA/ANALGESIA** - nerve damage; persistent back pain; headache; infection; bleeding/epidural hematoma; chronic pain; medical necessity to convert to general anesthesia; brain damage.

☐ _____**EPIDURAL ANESTHESIA/ANALGESIA** - nerve damage; persistent back pain; headache; infection; bleeding/epidural hematoma; chronic pain; medical necessity to convert to general anesthesia; brain damage.

☐ _____**DEEP SEDATION** – memory dysfunction/memory loss; medical necessity to convert to general anesthesia; permanent organ damage; brain damage.

☐ _____**MODERATE SEDATION** – memory dysfunction/memory loss; medical necessity to convert to general anesthesia; permanent organ damage; brain damage.

Additional comments/risks:

_____

_____

Check if applicable and have the patient/legally authorized representative initial:

☐ _____**PRENATAL/EARLY CHILDHOOD ANESTHESIA** - potential long-term negative effects on memory, behavior, and learning with prolonged or repeated exposure to general anesthesia/moderate sedation/deep sedation during pregnancy and in early childhood.

Granting of Consent for Anesthesia/Analgesia

In signing below, I consent to the anesthesia/analgesia described above. I acknowledge the following:

- I have been given an opportunity to ask questions I may have about:
    1. Alternative forms of anesthesia/analgesia,
    2. Steps that will occur during administration of anesthesia/analgesia, and
    3. Risks and hazards involved in the anesthesia/analgesia.
- I believe I have enough information to give this informed consent.
- I certify this form has been fully explained to me and the blank spaces have been filled in.
- I have read the form or had it read to me.
- I understand the information on this form.

If any of those statements are not true for you, please talk to your physician/health care provider before continuing.

_____

PATIENT/OTHER LEGALLY AUTHORIZED REPRESENTATIVE (signature required)

_____

Print Name **Signature**

If Legally Authorized Representative, list relationship to Patient:_____

DATE:_____TIME:_____A.M. /P.M.

WITNESS:

_____

Print Name **Signature**

_____

Address (Street or P.O. Box)

_____

City, State, Zip

Figura: 25 TAC §601.9(2)

INFORMACIÓN Y CONSENTIMIENTO: ANESTESIA O MANEJO DEL DOLOR PERIOPERATORIO (ANALGESIA)

AL PACIENTE: *Usted tiene derecho, como paciente, a ser informado sobre 1) la anestesia o analgesia recomendada que se utilizará y 2) los riesgos relacionados con ambas. Esta información fue diseñada para que usted pueda decidir si da su consentimiento para recibir anestesia o analgesia en el periodo perioperatorio (es decir, poco antes, durante y poco después de un procedimiento). Antes de firmar este formulario, le recomendamos que consulte con su médico o proveedor de atención médica sobre cualquier otra pregunta que pudiera tener.*

Administración de la anestesia o analgesia

_____El plan es que la anestesia o analgesia sea proporcionada por:

Marque el enfoque planeado y haga que el paciente o representante autorizado ponga sus iniciales:

(Marque una opción)

_____Médico [Nombre] _____anestesista u otro anestesista si él o ella no está disponible.
_____Médico no anestesista o dentista_____[Nombre].

(Marque todas las opciones que correspondan, si es el caso)

_____Asistente anestesista certificado
_____Enfermero anestesista certificado
_____Médico residente

Su médico o dentista puede explicarle las diferentes funciones de los proveedores y el nivel de participación del médico o dentista en la administración de la anestesia o analgesia.

Tipos de anestesia o analgesia planeados y temas relacionados

Entiendo que la anestesia o analgesia implican riesgos y peligros adicionales. Las probabilidades de que algo de lo anterior ocurra varían en cada persona, ya que dependen de la atención médica o procedimiento y del estado de salud actual del paciente. Comprendo que el tipo de anestesia o analgesia podría tener que cambiarse, posiblemente sin darme una explicación.

Entiendo que pueden ocurrir complicaciones graves, pero raras, con todos los métodos anestésicos o analgésicos. Algunos de estos riesgos son problemas de respiración y del corazón, reacciones a la medicina, daño nervioso, paro cardiaco, daño cerebral, parálisis o la muerte.

También entiendo que pueden ocurrir otros riesgos o complicaciones dependiendo del tipo de anestesia o analgesia. El tipo de anestesia o analgesia planeado para mí y los riesgos relacionados con cualquiera de ellos incluyen, entre otros, los siguientes:

Marque los métodos de anestesia o analgesia planeados y haga que el paciente/persona legalmente responsable ponga sus iniciales.

☐ _____**ANESTESIA GENERAL** (lesión a las cuerdas vocales, los dientes, los labios, los ojos); estar consciente durante el procedimiento; disfunción de la memoria o pérdida de la memoria; daño permanente a órganos; daño cerebral.

☐ _____**ANESTESIA O ANALGESIA DE BLOQUEO REGIONAL** (daño nervioso); dolor persistente; sangrado o hematoma; infección; necesidad médica de usar anestesia general; daño cerebral.

Lugar:_____.

☐ _____**ANESTESIA O ANALGESIA ESPINAL** (daño nervioso); dolor de espalda persistente; dolor de cabeza; infección; sangrado o hematoma epidural; dolor crónico; necesidad médica de usar anestesia general; daño cerebral.

☐ _____**ANESTESIA O ANALGESIA EPIDURAL** (daño nervioso); dolor de espalda persistente; dolor de cabeza; infección; sangrado o hematoma epidural; dolor crónico; necesidad médica de usar anestesia general; daño cerebral.

☐ _____**SEDACIÓN PROFUNDA** (disfunción de la memoria o pérdida de la memoria); necesidad médica de usar anestesia general; daño permanente a órganos; daño cerebral.

☐ _____**SEDACIÓN MODERADA** (disfunción de la memoria o pérdida de la memoria); necesidad médica de usar anestesia general; daño permanente a órganos; daño cerebral.

Comentarios o riesgos adicionales:

_____

_____

Marque si corresponde y haga que el paciente o el representante legal ponga sus iniciales:

☐ _____**ANESTESIA PRENATAL O DE LA INFANCIA TEMPRANA:** posibles efectos negativos a largo plazo sobre la memoria, el comportamiento y el aprendizaje con la exposición prolongada o repetida a la anestesia general o sedación moderada o sedación profunda durante el embarazo y la infancia temprana.

Dar consentimiento para la anestesia o analgesia

Mediante mi firma más abajo, doy mi consentimiento para que se me realicen los procedimientos descritos anteriormente. Reconozco lo siguiente:

- Se me ha dado la oportunidad de hacer preguntas para aclarar mis posibles dudas sobre:

1. Formas alternativas de anestesia o analgesia.
2. Los pasos que se darán durante la administración de la anestesia o analgesia, y
3.Los riesgos y peligros que conlleva la anestesia o analgesia.

- Considero que he recibido suficiente información para dar este consentimiento informado.
- Certifico que se me ha explicado completamente el contenido de este formulario y que los espacios en blanco han sido llenados.
- He leído este formulario o alguien me lo ha leído.
- Entiendo la información contenida en este formulario.

Si alguna de las declaraciones anteriores no es aplicable a usted, comuníquese con su médico o proveedor de atención médica antes de continuar.

_____

EL PACIENTE/OTRO REPRESENTANTE LEGALMENTE AUTORIZADO (la firma es obligatoria)

_____

Nombre en letra de molde **Firma**

Si usted es el representante legalmente autorizado, indique cuál es su relación

con el paciente: _____

FECHA:_____HORA:_____A.M./P.M.

TESTIGO:

_____

Nombre en letra de molde **Firma**

_____

Dirección (calle y número o apartado postal)

_____

Ciudad, estado y código postal

IN ADDITION

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

Comptroller of Public Accounts

Certification of the Single Local Use Tax Rate for Remote Sellers - 2023

The Comptroller of Public Accounts, administering agency for the collection of the Single Local Use Tax Rate for Remote Sellers, has determined, as required by Tax Code, §151.0595(e), that the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year ending August 2022 is 1.75%. This rate will be in effect for the period of January 1, 2023 to December 31, 2023.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

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

Issued in Austin, Texas, on October 25, 2022.

TRD-202204189
Jenny Burleson
Director, Tax Policy Division
Comptroller of Public Accounts
Filed: October 25, 2022

♦ ♦ ♦

Correction of Error

The Comptroller of Public Accounts adopted an amendment to 34 TAC §20.381 in the October 21, 2022, issue of the *Texas Register* (47 TexReg 7068). The subchapter designation listed for the adoption was incorrect. The correct designation for the subchapter is Subchapter E. Special Categories of Contracting.

TRD-202204201

♦ ♦ ♦

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 10/31/22 - 11/06/22 is 18% for Consumer[1]/Agricultural/Commercial[2] credit through $250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/31/22 - 11/06/22 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-202204197
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: October 26, 2022

♦ ♦ ♦

Deep East Texas Council of Governments

Harvey MOD Amendment Revised-Public Notice-10-4-2022

Notice is hereby given that the Deep East Texas Council of Governments (DETCOG) is seeking input on amendment of the Method of Distribution for Hurricane Harvey CDBG-Disaster Recovery Local Infrastructure Program funds (MOD Amendment). The MOD Amendment will reallocate declined and/or de-obligated funds totaling $101,103.00. These are Community Development Block Grant Disaster Recovery Funds related to Presidential Disaster Declaration 4332-DR (Hurricane Harvey). The public comment period begins October 21, 2022, and ends December 9, 2022. Written and oral comments will be accepted at the following times and locations:

First Public Hearing (Public Planning Meeting): Thursday, October 27, 2022, at 12:30 p.m. at the Howard Civic Center, 213 East Court Street in Newton, Texas.

Online Public Information Meeting: Tuesday, November 1, 2022, at 10:00 a.m. at the following online link: https://meet.goto.com/529354717

Second Public Hearing (MOD Public Hearing): Tuesday, November 22, 2022, at 12:30 p.m. at the Polk County Commerce Center, 1017 US Highway 59 North Loop, Livingston, Texas.

Written comments may be submitted to: Bob Bashaw, DETCOG Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904, or by email to Bob.Bashaw@detcog.gov. Written comments must be received by December 9, 2022, at 12:30 p.m.

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. All public meetings 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 ext. 5353 for assistance. For information about this posting, please call (936) 634-2247 ext. 5302.

Por la presente se notifica que el Consejo de Gobiernos del Este Profundo de Texas (DETCOG, por sus siglas en inglés) está buscando información sobre la enmienda del Método de distribución para los fondos del Programa de Infraestructura Local de Recuperación de Desastres CDBG-Huracán Harvey (Enmienda MOD). La Enmienda MOD reasignará fondos rechazados y/o desobligados por un total de $101,103.00. Estos son Fondos de Recuperación de Desastres de Subvención en Bloque para el Desarrollo Comunitario relacionados con la Declaración Presidencial de Desastres 4332-DR (Huracán Harvey). El período de comentarios públicos comienza el 21 de octubre de 2022 y finaliza el 22 de noviembre de 2022. Se aceptarán comentarios escritos y orales en los siguientes horarios y lugares:

Primera Audiencia Pública (Reunión Pública de Planificación): Jueves 27 de octubre de 2022, a las 12:30 p.m. en el Centro Cívico Howard en 213 East Court Street en Newton, Texas.

Reunión de Información Pública en línea: martes 1 de noviembre de 2022, a las 10:00 a.m. en el siguiente enlace en línea: https://meet.goto.com/529354717

Segunda Audiencia Pública (Audiencia pública MOD): martes 22 de noviembre de 2022, a las 12:30 p.m. en el Centro de Comercio del Condado de Polk en 1017 US Highway 59 North Loop en Livingston, Texas.

Los comentarios por escrito pueden enviarse a: Bob Bashaw, DETCOG Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904, o por correo electrónico a Bob.Bashaw@detcog.gov. Los comentarios por escrito deben recibirse antes del 9 de diciembre de 2022 a las 12:30 p.m.

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. Todas las reuniones públicas se llevarán 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.

Por favor llame al (936) 634-2247 ext. 5353 para asistencia. Para obtener información sobre esta publicación, llame al (936) 634-2247 ext. 5302.

TRD-202204150
Lonnie Hunt
Executive Director
Deep East Texas Council of Governments
Filed: October 19, 2022

♦ ♦ ♦

Texas Education Agency

Request for Applications Concerning the 2023-2025 Charter School Program (Subchapters C and D) Grant

Filing Authority. The availability of grant funds under Request for Applications (RFA) #701-23-107 is authorized by Public Law 114-95, Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, Title IV, Part C, Expanding Opportunity Through Quality Charter Schools; Texas Education Code, Chapter 12; and 19 Texas Administrative Code Chapter 100, Subchapter AA.

Eligible Applicants. Texas Education Agency (TEA) is requesting applications under RFA #701-23-107 from eligible applicants, which include open-enrollment charter schools that meet the federal definition of a charter school, have never received funds under this grant program, and are one of the following. (1) An open-enrollment charter school campus designated by the commissioner of education for the 2022-2023, 2023-2024, or 2024-2025 school year as a high-quality campus pursuant to 19 TAC §100.1033(b)(9) and (13). (2) Open-enrollment charter schools submitting an expansion amendment request and corresponding application for high-quality campus designation for the 2023-2024 or 2024-2025 school year by January 13, 2023, are considered eligible to apply for the grant. However, the commissioner must approve the expansion amendment request and designate the campus as a high-quality campus prior to the charter receiving grant funding, if awarded. (3) An open-enrollment charter school authorized by the commissioner under the Generation 26 charter application pursuant to TEC, Chapter 12, Subchapter D, that has never received funds under this grant program. (4) A campus charter school authorized by the local board of trustees pursuant to TEC, Chapter 12, Subchapter C, on or before December 16, 2022, as a new charter school or as a charter school that is designed to replicate a new charter school campus, based on the educational model of an existing high-quality charter school, that submits all required documentation as stated in this RFA. A campus charter school must apply through its public school district, and the application must be signed by the district's superintendent or the appropriate designee.

Important: Any charter school that does not open prior to Wednesday, September 4, 2024, after having been awarded grant funds may be required to forfeit any remaining grant funds and may be required to reimburse any expended amounts to TEA.

Description. The purpose of the Texas Quality Charter Schools Program Grant is to support the growth of high-quality charter schools in Texas, especially those focused on improving academic outcomes for educationally disadvantaged students. This will be achieved through administering the 2023-2025 Charter School Program (Subchapters C and D) Grant to assist eligible applicants in opening and preparing for the operation of newly authorized charter schools and replicated high-quality schools.

Dates of Project. The 2023-2025 Charter School Program (Subchapters C and D) Grant will be implemented during the 2023-2024 school year through the 2024-2025 school year. Applicants should plan for a starting date of no earlier than April 1, 2023, and an ending date of no later than July 31, 2025.

Project Amount. Approximately $15.3 million is available for funding the 2023-2025 Charter School Program (Subchapters C and D) Grant. It is anticipated that approximately 17 grants will be awarded up to $900,000. This project is funded 100% with federal funds.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Applicants' Conference. A webinar will be held on Thursday, December 1, 2022, from 10:00 a.m. to 12:00 p.m. Register for the webinar at https://us02web.zoom.us/meeting/register/tZEpf-CpqzgiGNFI4qO4pn_qVqhJ0Gxn7Ogi. Questions relevant to the RFA may be emailed to Charlotte Nicklebur at CharterSchools@tea.texas.gov prior to 5:00 p.m. CST on Friday, November 18, 2022. These questions, along with other information, will be addressed during the webinar. The applicants' conference webinar will be open to all potential applicants and will provide general and clarifying information about the grant program and the RFA.

Requesting the Application. The complete RFA will be posted on the TEA Grant Opportunities web page at https://tea4avalonzo.tea.state.tx.us/GrantOpportunities/forms/GrantProgramSearch.aspx for viewing and downloading. In the "Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view and download all documents that pertain to this RFA.

Further Information. In order to make sure that no prospective applicant obtains a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to CharterSchools@tea.texas.gov, the TEA email address identified in the Program Guidelines of the RFA, no later than December 9, 2022. All questions and the written answers thereto will be posted on the TEA Grant Opportunities web page in the format of Frequently Asked Questions (FAQs) by December 15, 2022. In the "Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be submitted to competitivegrants@tea.texas.gov. Applications must be received no later than 11:59 p.m. (Central Time), January 13, 2023, to be considered eligible for funding.

TRD-202204199
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: October 26, 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 **December 7, 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 **December 7, 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: Albemarle Corporation; DOCKET NUMBER: 2021-0333-AIR-E; IDENTIFIER: RN100218247; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical processing plant; RULES VIOLATED: 30 TAC §115.725(l) and §122.143(4), Federal Operating Permit (FOP) Number O2310, General Terms and Conditions (GTE) and Special Terms and Conditions Number 1ST, and Texas Health and Safety Code (THSC), §382.085(b), by failing to operate the gas analyzer in a manner that provides valid data when the flare is operational, averaged over the calendar year; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O2310, GTE, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: $12,230; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $6,115; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: CAPSTONE PROPERTY MANAGEMENT, LLC; DOCKET NUMBER: 2022-0785-MWD-E; IDENTIFIER: RN106656671; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: mobile home park; RULES VIOLATED: 30 TAC §285.3(g)(1) and §305.42(a) and TWC, §26.121(a)(1), by failing to obtain authorization for the treatment and disposal of domestic wastewater; PENALTY: $6,250; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: COKE COUNTY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-0944-PWS-E; IDENTIFIER: RN101220820; LOCATION: Robert Lee, Coke 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: $1,687; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(4) COMPANY: Harris County Water Control and Improvement District 89; DOCKET NUMBER: 2021-1627-PWS-E; IDENTIFIER: RN102683489; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligrams per liter of chloramine throughout the distribution system at all times; PENALTY: $526; ENFORCEMENT COORDINATOR: America Ruiz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Lafferty Race Fuels LLC; DOCKET NUMBER: 2022-0886-PST-E; IDENTIFIER: RN101805760; LOCATION: Amarillo, Randall County; TYPE OF FACILITY: public water supply; 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 at a frequency of at least once every 30 days; PENALTY: $3,375; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 881-6991; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(6) COMPANY: Lake Livingston Water Supply Corporation; DOCKET NUMBER: 2022-0026-PWS-E; IDENTIFIER: RN101280972; LOCATION: Livingston, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(l)(5), by failing to meet the conditions for an issued exception; 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's Well Number 3; and 30 TAC §290.45(b)(1)(C)(i), by failing to provide a well capacity of 0.6 gallons per minute per connection; PENALTY: $1,601; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 881-6990; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(7) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2022-0726-PWS-E; IDENTIFIER: RN101259679; LOCATION: Leggett, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(d)(2)(A), (h), and (i), by failing to collect one lead and copper sample from the facility's one entry point no later than 180 days after the end of the January 1, 2019 - December 31, 2021, monitoring period during which the lead action level was exceeded, have the samples analyzed, and report the results to the executive director (ED); 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2019 - December 31, 2021, monitoring period during which the lead action level was exceeded; and 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2019 - December 31, 2021, monitoring period during which the lead action level was exceeded; PENALTY: $3,675; ENFORCEMENT COORDINATOR: Daniel Brill, (512) 239-2564; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(8) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2022-0800-PWS-E; IDENTIFIER: RN101240000; LOCATION: Van Vleck, Matagorda County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's two wells; 30 TAC §290.45(b)(1)(A)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a pressure tank capacity of 50 gallons per connection; and 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; PENALTY: $1,572; ENFORCEMENT COORDINATOR: Ecko Beggs, (915) 834-4968; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: V3 HOLDINGS, INCORPORATED dba V MART; DOCKET NUMBER: 2021-1626-PST-E; IDENTIFIER: RN102403821; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.225 and Texas Health and Safety Code, §382.085(b), by failing to comply with annual Stage I vapor recovery testing requirements; 30 TAC §334.10(b)(2), by failing to assure that all recordkeeping requirements are met; and 30 TAC §334.50(b)(1)(A) and (2) and TWC, 26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases in a manner which will detect a release at a frequency of at least once every 30 days, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: $5,348; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(10) COMPANY: WDL, LLC; DOCKET NUMBER: 2022-0770-PWS-E; IDENTIFIER: RN100868470; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(d)(2)(A), (h), and (i), by failing to collect one lead and copper sample from the facility's one entry point no later than 180 days after the end of the January 1, 2021 - December 31, 2021, monitoring period during which the lead action level was exceeded, have the sample analyzed, and report the results to the executive director (ED); 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2021 - December 31, 2021, monitoring period during which the lead action level was exceeded; and 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2021 - December 31, 2021, monitoring period during the lead action level was exceeded; PENALTY: $2,187; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202204194
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: October 25, 2022

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Correction of Error

The Texas Commission on Environmental Quality 2(commission) adopted new 30 TAC §§112.100 - 112.108, 112.110 - 112.118, 112.200 - 112.203, 112.206 - 112.208, 112.210 - 112.213, 112.216 - 112.218, 112.220 - 112.228, 112.230 - 112.238, 112.240 - 112.248, and 112.300 - 112.308 in the October 21, 2022, issue of the *Texas Register* (47 TexReg 6985).

Due to an error as submitted by the commission, §112.228(b) was published incorrectly. The sentence should have been published as follows:

"(b) The owner or operator of a source subject to §112.220 of this title shall comply with §112.222(a)(2), (b) - (e), §112.223(b), (d), (f), (h), and §112.226(1) - (6) no later than January 1, 2025."

Due to an error as submitted by the commission, §112.242(h)(2) was published incorrectly. The paragraph should have been published as follows:

"(2) the New Flare (EPN New Flare) must be constructed with a stack height of 60.35 meters and must be located at Universal Transverse Mercator (UTM) coordinates UTM East Meters 279488 and UTM North Meters 3949627 in UTM Zone 14."

Due to an error as submitted by the commission, §112.232(a) was published incorrectly. The subsection should have been published as follows:

"(a) SRU Incinerator (EPN 34I1) emissions may not exceed 44.82 pounds per hour (lb/hr) sulfur dioxide (SO_2) during normal operations;"

TRD-202204207
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: October 26, 2022

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Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Staff-Initiated Minor Amendment and Notice of a Pretreatment Program Substantial Modification: Permit No. WQ0010397005 Aviso De La Solicitud Y Decisión Preliminar Para El Permiso Del Sistema De Eliminacion De Descargas De Contaminantes De Texas (TPDES) Para Aguas Residuales Municipales: Modificación Permiso No. WQ0010397005

The following notice was issued on October 21, 2022.

APPLICATION AND PRELIMINARY DECISION. The Texas Commission on Environmental Quality (TCEQ) has initiated a minor amendment of the Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010397005 issued to Public Utilities Board of the City of Brownsville, P.O. Box 3270, Brownsville, Texas 78520

to authorize a substantial modification to the approved pretreatment program. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 14,500,000 gallons per day (gpd). TCEQ received this application on July 28, 2022.

The facility is located at 3208 Robindale Road, Brownsville, in Cameron County, Texas 78526. The treated effluent is discharged to Cameron County Drainage Ditch No. 1, thence to San Martin Lake, thence to the Brownsville Ship Channel in Segment No. 2494 of the Bays and Estuaries. The unclassified receiving water use is minimal aquatic life use for Cameron County Drainage Ditch No. 1. The designated uses for Segment No. 2494 are non-contact recreation and exceptional aquatic life use. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.454166%2C25.955555&level=12

The applicant has applied to the TCEQ for approval of a substantial modification to its approved pretreatment program under the TPDES program. The request for approval complies with both federal and state requirements. The substantial modification will be approved without change if no substantive comments are received within 30 days of notice publication. Approval of the request for modification to the approved pretreatment program will allow the applicant to revise their technically based local limits and ordinance which incorporates such revisions to continue to regulate the discharge of pollutants by industrial users into its treatment works facilities. The following treatment work facilities will be subject to the requirements of the pretreatment program: TPDES Permit Nos. WQ0010397005 and WQ0010397003.

The TCEQ Executive Director has completed the technical review of the pretreatment program substantial modification and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The Executive Director has also made a preliminary decision that the requested substantial modification to the approved pretreatment program, if approved, meets all statutory and regulatory requirements. The pretreatment program substantial modification, fact sheet and Executive Director's preliminary decision, and draft permit are available for viewing and copying at Brownsville Public Library, 2600 Central Boulevard, Brownsville, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this draft permit or on the application for substantial modification of the pretreatment program. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the draft permit or the application for the substantial modification of the pretreatment program. Generally, the TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the draft permit, or the application for substantial modification of the pretreatment program, or if requested by a local legislator. A public meeting is not a contested case hearing. There is no opportunity to request a contested case hearing on the application for substantial modification of the pretreatment program.

All written public comments and requests for a public meeting must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days of the date of publication of this notice in the *Texas Register*.

After the deadline for public comments, the Executive Director will consider the comments and prepare a response to all relevant and material, or significant public comments. The response to comments will be mailed to everyone who submitted public comments or who requested to be on a mailing list for this application.

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

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

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

Further information may also be obtained from Public Utilities Board of the City of Brownsville, Texas at the address stated above or by calling Mr. Juan J. Castañeda at (956) 983-6516.

SOLICITUD Y DECISIÓN PRELIMINAR. La Comisión de Calidad Ambiental del Estado de Texas (TCEQ) ha iniciado una rectificación menor al permiso de Eliminación de Descargas de Contaminantes de Texas (TPDES) No. WQ0010397005, promulgado a Public Utilities Board de la Ciudad de Brownsville, Texas, P.O. Box 3270, Brownsville, Texas 78520, con el objetivo de autorizar una considerable modificación al programa de pretratamiento aprobado. El permiso actual autoriza la descarga de aguas residuales domesticas tratadas en un promedio anual sin exceder los 14, 500, 000 galones por día. La TCEQ recibió esta solicitud el 28 de Julio, 2022.

La planta está ubicada en el 3208 Robindale Road, Brownsville en el Condado de Cameron, Texas 78526. El efluente tratado es descargado al Canal de Drenes No. 1 del Condado de Cameron, de allí al Lago San Martin, de allí al Canal de Navegación de Brownsville en el Segmento No. 2494 de la Bahía y Estuarios. Los usos no clasificados de las aguas receptoras son de limitados usos de la vida acuática para el Canal de Drenes No. 1 del Condado de Cameron. Los usos designados para el Segmento No. 2494 son de uso excepcional de vida acuática y recreación sin contacto. Este enlace a un mapa electrónico del sitio o instalación general se proporciona como una cortesía pública y no es parte de la solicitud o aviso. Para la ubicación exacta, consulte al pedido de modificación.

https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.454166%2C25.955555&level=12

El solicitante también ha solicitado a la TCEQ la aprobación de modificaciones significativos al programa de pretratamiento bajo el programa TPDES. El pedido de aprobación cumple con los requisitos estatales y federales. La modificación principal será aprobada sin cambio si no se reciben comentarios significativos dentro de treinta (30) días del aviso de publicación

La aprobación al pedido de modificación al programa de pretratamiento permitirá al solicitante revisar los límites locales técnicamente basados, la ordenanza y continuar la regulación de las descargas de contaminantes por usuarios industriales en las plantas de tratamiento. Las siguientes plantas de tratamiento estarán sujetas a los requisitos del programa de pretratamiento: TPDES Permisos WQ0010397005 y WQ0010397003.

El Director Ejecutivo de la TCEQ ha completado la revisión técnica de la solicitud y ha preparado un borrador del permiso. El borrador del permiso, si es aprobado, establecería las condiciones bajo las cuales la instalación debe operar. El Director Ejecutivo igual ha tomado una decisión preliminar que si este permiso es emitido, cumple con todos los requisitos normativos y legales. El Director Ejecutivo también ha tomado una decisión preliminar hacía la solicitud de modificación sustancial al programa de pretratamiento aprobado, si se aprueba, cumple con todos los requisitos legales y requisitos reglamentarios. La modificación sustancial al programa de pretratamiento, la decisión preliminar del Director Ejecutivo, el borrador del permiso y hoja de datos están disponibles para leer y copiar en la Librería Publica de Brownsville ubicada en el 2600 Central Boulevard, Brownsville, Texas.

COMENTARIO PUBLICO / REUNION PUBLICA. Usted puede presentar comentarios públicos o pedir una reunión pública sobre esta solicitud. El propósito de una reunión pública es dar la oportunidad de presentar comentarios o hacer preguntas acerca de la aprobación al pedido de modificación al programa de pretratamiento y el borrador del permiso. La TCEQ realiza una reunión pública si el Director Ejecutivo determina que hay un grado de interés público suficiente de la aprobación al pedido de modificación al programa de pretratamiento o si un legislador local lo pide. Una reunión pública no es una audiencia administrativa de lo contencioso. No hay oportunidad de solicitar un caso de audiencia impugnado sobre la solicitud de modificación sustancial del programa de pretratamiento.

Todos los comentarios escritos del público y los pedidos una reunión deben ser presentados durante los 30 días después de la publicación del aviso a la Oficina del Secretario Principal, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 o por el internet a www.tceq.texas.gov/about/comments.html. Tenga en cuenta que cualquier información personal que usted proporcione, incluyendo su nombre, número de teléfono, dirección de correo electrónico y dirección física pasarán a formar parte del registro público de la Agencia.

Después del plazo para presentar comentarios públicos, el Director Ejecutivo considerará todos los comentarios apropiados y preparará una respuesta a todos los comentarios públicos esenciales, pertinentes, o significativos. La respuesta a los comentarios será enviada por correo a todos los que presentaron un comentario público y a las personas que están en la lista para recibir avisos sobre este pedido de modificación al programa de pretratamiento.

LISTA DE CORREO. Si somete comentarios públicos, la Oficina del Secretario Principal enviará por correo los avisos públicos en relación con el pedido de modificación al programa de pretratamiento. Además, puede pedir que la TCEQ ponga su nombre en una o más de las listas de correos siguientes: (1) la lista de correo permanente para recibir los avisos del solicitante indicado por nombre y número del permiso específico y/o (2) la lista de correo de todas las solicitudes en un condado especifico. Si desea que se agrega su nombre en una de las listas designe cual lista(s) y envíe por correo su pedido a la Oficina del Secretario Principal de la TCEQ.

INFORMACIÓN DISPONIBLE EN LÍNEA. Para obtener detalles sobre el estado de la solicitud, visite la base de datos integrada de los comisionados en www.tceq.texas.gov/goto/cid. Buscar en la base de datos utilizando el número de permiso al pedido de modificación al programa de pretratamiento, que se proporciona en la parte superior de este aviso. CONTACTOS E INFORMACIÓN DE LA AGENCIA. Los comentarios y solicitudes del público deben ser presentados electrónicamente en www.tceq.texas.gov/goto/comment, o por escrito al Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Cualquier información personal que envíe a la TCEQ se convertirá en parte del registro de la agencia; esto incluye direcciones de correo electrónico. Para más información sobre la aprobación al pedido de modificación al programa de pretratamiento y el borrador del permiso por favor llame a Programa de Educación Pública de la TCEQ, sin cobro, al (800) 687-4040 o en nuestro sitio de la red: www.tceq.texas.gov/goto/pep.

También se puede obtener más información del Public Utilities Board de la Ciudad de Brownsville, Texas en la dirección indicada anteriormente o llamando al Sr. Juan J. Castañeda al (956) 983-6516.

TRD-202204180
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

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Notice of Correction to Agreed Order Number 3

In the July 8, 2022, issue of the *Texas Register* (47 TexReg 3994), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 3, for Carlos A. Villalobos; Docket Number 2021-0613-WQ-E. The error is as submitted by the commission.

The reference to rules violated should include: "TWC, §26.121(a)."

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

TRD-202204193
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: October 25, 2022

♦ ♦ ♦

Notice of Correction to Agreed Order Number 16

In the May 6, 2022, issue of the *Texas Register* (47 TexReg 2783), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 16, for TEXACO TEXAS ONE INVESTMENTS INC dba Texas Food Mart 2011; Docket Number 2021-1524-PST-E. The error is as submitted by the commission.

The reference to the Company should be corrected to read: "TEXACO TEXAS ONE INVESTMENTS INC dba Texaco Food Mart 2011."

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

TRD-202204195
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: October 25, 2022

♦ ♦ ♦

Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-08032022-004; BR595 Investments, LP, a Texas limited partnership, (Petitioner) filed a petition with the Texas Commission on Environmental Quality (TCEQ) for the annexation of land into Blue Meadow Municipal Utility District No. 1 of Collin County (District) under Local Government Code Section (§) 42.042 and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to the majority of the property in the proposed annexation area to be included in the District; (2) the proposed property annexation will contain approximately 97.909 acres located within Collin County; and (3) all of the land within the proposed property annexation is within the extraterritorial jurisdiction of the City of Blue Ridge, Texas (City). Information provided indicates that there are no lienholders on the property to be annexed into the District. The property proposed for annexation is adjoined to the northern boundary of the District. Access to the annexation tract will be by Farm-to-Market Road 545 to the north. In accordance with Local Government Code §42.0425 and §42.042, the Petitioner and the District submitted a petition to the City, requesting the City's consent to the annexation of land into the District. Information provided indicates that the City did not consent to the inclusion of the land into the District's area. After the 90-day period passed without receiving the City's consent to the annexation, the Petitioner submitted a petition to the City requesting the City provide water and sanitary sewer services to the proposed annexation area. The 120-day period for reaching a mutually agreeable contract expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Local Government Code §42.042, failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the proposed annexation area 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-202204166
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

♦ ♦ ♦

Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-06222022-050; Honeycreek Venetian, LLC, a Wyoming limited liability company (Petitioner) filed a petition (petition) for creation of Collin County Municipal Utility District No. 8 (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 Petitioners hold title to a majority in value of the land in the proposed District; (2) there is one lienholder, MCI Preferred Income Fund II, LLC, on the property to be included in the proposed District and the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 119.85 acres located within Collin County, Texas; and (4) all of the land within the proposed district is located wholly within the extraterritorial jurisdiction of the City of Weston (City). The petition further states that the work proposed to be done by the District at the present time is: (1) the construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) the construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, for domestic and commercial purposes; (3) the construction, installation, maintenance, purchase and operation of drainage and roadway facilities and improvements; and (4) the construction, installation, maintenance, purchase and operation of facilities, systems, plants and enterprises of such additional facilities as shall be consonant with 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 $13,800,000 (including $12,100,000 for water, wastewater, and drainage plus $1,700,000 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 authoriza-

tion 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-202204167
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

♦ ♦ ♦

Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-06242022-057; Honeycreek Venetian, LLC, a Wyoming limited liability company (Petitioner) filed a petition (petition) for creation of Collin County Municipal Utility District No. 9 (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 Petitioners hold title to a majority in value of the land 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 181.91 acres located within Collin County, Texas; and (4) all of the land within the proposed district is located wholly within the extraterritorial jurisdiction of the City of Weston (City).

The petition further states that the work proposed to be done by the District at the present time is: (1) the construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) the construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, for domestic and commercial purposes; (3) the construction, installation, maintenance, purchase and operation of drainage and roadway facilities and improvements; and (4) the construction, installation, maintenance, purchase and operation of facilities, systems, plants and enterprises of such additional facilities as shall be consonant with 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 $42,900,000 (including $38,200,000 for water, wastewater, and drainage plus $4,700,000 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-202204168
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

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Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-09142022-029; Century Land Holdings of Texas, LLC, a Colorado limited liability company (Petitioner) filed a petition for creation of Fort Bend County Municipal Utility District No. 258 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 and Article III, §52 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 no lienholders on the property to be included in the proposed District ; (3) the proposed District will contain approximately 183.93 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, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of waters; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, parks and recreation 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 $40,540,000 ($31,710,000 for water, wastewater, and drainage, $7,015,000 for roads, and $1,815,000 for recreational).

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-202204169
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

♦ ♦ ♦

Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-06102022-016; Redbird Meadow Development, LLC, a Texas limited liability company (Petitioner) filed a petition (petition) for creation of Montgomery County Municipal Utility District No. 215 (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 Petitioners hold title to a majority in value of the land in the proposed District; (2) there is one lienholder, Conservative Investments, Inc., on the property to be included in the proposed District and the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 388.5055 acres located within Montgomery County, Texas; and (4) 279.29 acres of the District is located wholly within the extraterritorial jurisdiction of the City of Montgomery (City), 98.9115 acres of the District is located outside of the corporate boundaries or the extraterritorial jurisdiction of the City, and 10.304 acres of the District is located wholly within the corporate boundaries of the City. By Ordinance No. 2022-10, passed and approved on May 10, 2022, the City gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. By Ordinance No. 2022-12, passed and approved on May 24, 2022, the City annexed 378.2015 acres of the District, pursuant to Texas Local Government Code §43.0671 and §43.0672. This portion of the District was located partially within the extraterritorial jurisdiction of the City of Montgomery, and partially within the unincorporated area of Montgomery County at the time the petition was filed with the City. The entire 388.5055 acres that comprises the District is now located within the corporate limits of the City of Montgomery. The petition further states that the work proposed to be done by the District at the present time is: (1) the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes; (2) the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District; (3) to control, abate and amend local storm waters or other harmful excesses of waters; and (4) such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities,

including roads, parks and recreation facilities, systems, plants and enterprises as shall be consistent 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 $58,285,000 (including $29,300,000 for water, wastewater, and drainage plus $16,755,000 for roads and $12,230,000 for park and recreational facilities).

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.

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TRD-202204170
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

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Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-07192022-023; Sparks Shepard Ventures, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Shepherd's Place Municipal Utility District No. 1 of Grayson County (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 391.321 acres located within Grayson County, Texas; and (4) all of the land within the proposed District is wholly within the corporate limits of the City of Sherman.

By Resolution No. 6898, passed and adopted on June 6, 2022, the City of Sherman, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic, and commercial wastes; (3) gather, conduct, divert, abate, and amend local storm waters or other harmful excesses of water; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $50,150,000 ($27,770,000 for water, wastewater, and drainage and $22,380,000 for roads).

INFORMATION SECTION

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

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(512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202204171
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

♦ ♦ ♦

Notice of District Petition

Notice issued October 19, 2022

TCEQ Internal Control No. D-08222022-043; Enclave Gassner Tract, LLC, a Delaware limited liability company (Petitioner) filed a petition for creation of Waller County Municipal Utility District No. 45 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 and Article III, §52 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) information provided indicates that there is one lienholder, Flagstar Bank, FSB, a federally chartered savings bank, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 212.72 acres located within Waller 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, improve, extend, maintain, and operate a waterworks and sanitary sewer system for domestic and commercial purposes; (2) purchase, 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 interests in land and purchase, construct, acquire, improve, extend, maintain, and operate improvements, facilities, and equipment for the purpose of providing recreational facilities. Additionally, the proposed District may also exercise road powers and authority, the proposed District will also establish, finance, provide, operate, and maintain a fire department and/or fire-fighting services within the proposed District's boundaries. 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 $55,280,000 ($39,400,000 for water, wastewater, and drainage, $11,450,000 for roads, and $4,430,000 for recreation).

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-202204172
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 21, 2022

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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **December 7, 2022.** The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on December 7, 2022.** Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorney is available to discuss the DO

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

(1) COMPANY: First Yeti Inc dba Classic Mart; DOCKET NUMBER: 2020-0553-PST-E; TCEQ ID NUMBER: RN102456332; LOCATION: 605 South 9th Street, Slaton, Lubbock County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 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; and TWC, §26.3475(c)(2) and 30 TAC §334.42(i), by failing to inspect all sumps, including dispenser sumps, manways, and overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris; PENALTY: $6,236; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-202204191
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: October 25, 2022

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Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. 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 **December 7, 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 the 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 December 7, 2022.** Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing.**

(1) COMPANY: AIZA, INC. dba Hondo Shell; DOCKET NUMBER: 2021-0166-PST-E; TCEQ ID NUMBER: RN101431740; LOCATION: 1201 19th Street, Hondo, Medina County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(B), by failing to monitor the USTs 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; TWC, §26.3475(a) and 30 TAC §334.50(b)(2)(A)(iii), by failing to monitor the pressurized piping associated with the UST system in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for piping installed or replaced on or after January 1, 2009; and 30 TAC §334.10(b)(2), by failing to assure that all UST record keeping requirements are met; PENALTY: $1,350; STAFF ATTORNEY: Megan Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202204190
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: October 25, 2022

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Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 7

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 Texas Administrative Code (TAC) Chapter 7, Memoranda of Understanding, §7.101, under the requirements of Texas Government Code, Chapter 2001, Subchapter B.

The proposed rulemaking would repeal 30 TAC §7.101, Memorandum of Understanding between the Texas Department of Commerce and the Texas Natural Resource Conservation Commission.

The commission will hold a hold a hybrid virtual and in-person public hearing on this proposal in Austin on Tuesday, December 6, at 10:00 a.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Friday, December 2, 2022. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Monday, December 5, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTRiNjA4NjItMTFkOS00ZTFmLTllM2UtMGVmYjQ1YzQzODJl%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%2c%22IsBroadcastMeeting%22%3atrue%7d*

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy

Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Written comments may be submitted to Cecilia Mena, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov.* Electronic comments may be submitted at: *https://tceq.commentinput.com/comment/search.* File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2022-020-007-LS. The comment period closes December 7, 2022.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html.* For further information, please contact Kathy Humphreys, Environmental Law Division, (512) 239-3417.

TRD-202204178
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: October 21, 2022

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Notice of Public Hearing on Proposed Revisions to 30 TAC Chapters 292 and 293

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 Texas Administrative Code (TAC) §§292.1(a), 292.1(a)(5), 292.13(5), 292.13(6)(B), 293.59(k)(3)(A), 293.59(k)(4)(A), and 293.59(k)(11)(C) of Chapter 292, Special Requirements for Certain Districts and Authorities and Chapter 293, Water Districts, under the requirements of Texas Government Code, Chapter 2001, Subchapter B.

The proposed rulemaking would implement Senate Bill (SB) 3, (80th) SB 2262 (85th) and staff-initiated River Authority and Feasibility Tax Rate Revisions.

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Wednesday, December 7, at 2:00 p.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Monday, December 5, 2022. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Tuesday, December 6, 2022, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at: https://teams.microsoft.com/l/meetup-join/19%3ameeting_YmZkOGNiMTMtZGJiNy00OGNjLWFjMDYtZGNhOGNmMjlhMDg5%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%22e74a40ea-69d4-469d-a8ef-06f2c9ac2a80%22%2c%22IsBroadcastMeeting%22%3atrue%7d

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: *https://tceq.commentinput.com/.* File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2022-017-292-OW. The comment period closes on December 7, 2022. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Justin Taack, Water Supply Division, (512) 239-0418.

TRD-202204176
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: October 21, 2022

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Notice of Water Rights Application

Notice Issued October 26, 2022

APPLICATION NO. 08-4248F; Trinity River Authority of Texas, 5300 South Collins St., Arlington, Texas 76018, Applicant, has applied to amend Certificate of Adjudication No. 08-4248 to divert 140-acre-feet portion of water authorized under the certificate, as amended, from a point on the Trinity River, Trinity River Basin for wildlife management purposes in Anderson 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 July 14, 2021. Additional fees were received on September 7, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on September 8, 2021.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions, including but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit 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.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by November 14, 2022. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by November 14, 2022. The Executive Director may approve the application unless a written request for a contested case hearing is filed by November 14, 2022.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[*I/we*] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at https://www14.tceq.texas.gov/epic/eComment/ by entering ADJ 4248 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea informacíon en español, puede llamar al (800) 687-4040 o por el internet al http://www.tceq.texas.gov.

TRD-202204200
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 26, 2022

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General Land Office

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of October 10, 2022 to October 21, 2022. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, October 28, 2022. The public comment period for this project will close at 5:00 p.m. on Sunday, November 27, 2022.

FEDERAL AGENCY ACTIVITIES:

Applicant: Bureau of Ocean Energy Management (BOEM)

Project Description: BOEM proposes to offer for lease in proposed Gulf of Mexico (GOM) oil and gas Lease Sale 259 all available unleased blocks in the Western Planning Area (WPA), Central Planning Area (CPA), and Eastern Planning Area (EPA) not currently under Presidential withdrawal. Under Section 12(a) of the OCS Lands Act, 43 U.S.C. § 1341(a), the President may "withdraw from disposition any of the unleased lands of the Outer Continental Shelf." On September 8, 2020, the areas of the OCS designated by Section 104(a) of the Gulf of Mexico Energy Security Act of 2006, Public Law 109-432, were withdrawn from disposition by leasing for 10 years, beginning on July 1, 2022, and ending on June 30, 2032 (White House, 2020).

The GOM Lease Sale 259 would offer for lease all available unleased blocks within the WPA, CPA, and EPA portions of the lease sale area for oil and gas operations, with the following exceptions:

--whole and partial blocks currently under Presidential withdrawal (White House, 2020);

--blocks that are adjacent to or beyond the United States' Exclusive Economic Zone; and

--whole and partial blocks within the boundaries of the Flower Garden Banks National Marine Sanctuary as of the July 2008 Presidential "Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf from Leasing Disposition" (Weekly Compilation of Presidential Documents, 2008).

The final decision on whether and how to proceed with the lease sale and the lease blocks available for leasing will be announced in the Record of Decision and, if the decision is to proceed, a Final Notice of Sale. When a decision to proceed with the lease sale is made, the lease sale area for GOM Lease Sale 259 may be smaller than the proposed reduced area considered herein, but BOEM is not planning for it to be larger than the region-wide area considered herein. The proposed lease sale area encompasses about 94.14 million acres with approximately 84.11 million acres available for lease as of August 2022. Leasing information related to all three planning areas is updated monthly and can be found on BOEM's website at http://www.boem.gov/Gulf-of-Mexico-Region-Lease-Map/. The estimated amount of resources projected to be leased, discovered, developed, and produced as a result of the sale are 0.211-1.118 billion barrels of oil and 0.547-4.424 trillion cubic feet of gas. BOEM proposes to tentatively hold GOM Lease Sale 259 on March 29, 2023.

CMP Project No: 23-1047-F2

FEDERAL AGENCY ACTIONS:

Applicant: Turn Services, LLC

Location: The project site is located in Upper San Jacinto Bay Channel/Galveston Bay, at 12029 Strang Road, in LaPorte, Harris County, Texas.

Latitude & Longitude (NAD 83): 29.703683, -95.045811

Project Description: The applicant proposes to mechanically dredge approximately 569,444 cubic yards of material from 56.2 acres to a depth of (-)10.0 feet mean lower low water (MLLW) with a 2.0-foot allowable over depth to be placed into one of two private placement areas and is also proposing to install eleven 36-inch steel monopiles within the existing barge fleeting area.

The applicant is also proposing to install approximately 1,912 linear feet of sheet pile bulkhead directly in front of the existing bulkhead and is proposing to fill the area between the existing bulkhead and the new proposed bulkhead with approximately 5,352 cubic yards of rock fill, approximately 2,833 cubic yards of fill below mean high tide (MHT).

Type of Application: U.S. Army Corps of Engineers permit application #SWG-2022-00427. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 23-1046-F1

Applicant: Brazos Pilots Association

Location: The project site is located in the Gulf Intracoastal Waterway (GIWW), at 2503 Compass Court, in Quintana, Brazoria County, Texas.

Latitude & Longitude (NAD 83): 28.92219. -95.33672

Project Description: The applicant proposes to modify Department of the Army Permit SWG-2003-00516 (formerly 23010) to construct a single boat slip at the terminus of Compass Court on Quintana Island in Freeport, Texas. The purpose of the boat slip is to perform maintenance on pilot vessels out of the water by constructing a 170-foot by 20-foot slip with a depth of -9 feet Mean Lower Low Water (MLLW), with one foot of allowable overdepth. Approximately 90 feet of the 170-foot slip is landward of the rock groin on the GIWW. No wetlands exist in the project footprint or immediate vicinity of the proposed land portion of the proposed new slip. The 90-foot by 20-foot landward portion of the project will be mechanically dredged in the dry and be bulkheaded with vinyl sheet piling with a concrete cap before the rock and sediment plug making the tie in to the GIWW is removed. Approximately 198 cubic yards of material will be dredged either mechanically or hydraulically from the 80-foot-long section of the slip that is on the GIWW side of the existing rock to intersect the -10-foot MLLW contour. Approximately 10.7 cubic yards of rip rap will be discharged below mean high water into 48-square-foot of the GIWW at the western terminus of the existing bulkhead to stabilize the end of the bulkhead and shoreline. The applicant proposes to place the dredged material into an upland confined placement area or for beneficial use at a nearby location, or within Port Freeport Dredge Material Placement Areas 1 and/or 2, inclusive of the return effluent discharge.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2003-00516. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 23-1048-F1

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

TRD-202204208
Mark Havens
Chief Clerk, Deputy Land Commissioner
General Land Office
Filed: October 26, 2022

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Texas Department of Insurance

Company Licensing

Application for Republic Lloyds, a domestic fire and/or casualty company, to change its name to Sierra Specialty Insurance Company. The home office is in Dallas, Texas.

Application for incorporation in the state of Texas for Tenure Health Insurance Company, Inc., a domestic life, accident and/or health company. The home office is in Austin, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202204153
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: October 20, 2022

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Company Licensing

Application for incorporation in the state of Texas for Metafish Technology Insurance Company, a domestic life, accident and/or health company. The home office is in Austin, Texas.

Application for incorporation in the state of Texas for Tenure Health Insurance Company, Inc., a domestic life, accident and/or health company. The home office is in Austin, Texas.

Application for Settlers Life Insurance Company, a foreign life, accident and/or health company, to change its name to Everly Life Insurance Company. The home office is in Topeka, Kansas.

Correction: in the October 21, 2022 issue of the *Texas Register,* a name reservation was published for CareSource Bayou Health, LLC. The correct name of the company is CareSource Bayou Health LLC.

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, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202204206
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: October 26, 2022

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Texas Lottery Commission

Scratch Ticket Game Number 2458 "GREAT 8s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2458 is "GREAT 8s". The play style is "find symbol".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2458 shall be $2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2458.

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, 09, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 8 SYMBOL, 88 SYMBOL, $2.00, $4.00, $5.00, $10.00, $20.00, $50.00, $100, $1,000 and $30,000.

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

Figure 1: GAME NO. 2458 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
8 SYMBOL	WIN$
88 SYMBOL	DBL

$2.00	TWO$
$4.00	FOR$
$5.00	FIV$
$10.00	TEN$
$20.00	TWY$
$50.00	FFTY$
$100	ONHN
$1,000	ONTH
$30,000	30TH

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2458), 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: 2458-0000001-001.

H. Pack - A Pack of the "GREAT 8s" 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 "GREAT 8s" Scratch Ticket Game No. 2458.

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 "GREAT 8s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose twenty (20) Play Symbols. If a player reveals an "8" Play Symbol, the player wins the PRIZE for that symbol. If the player reveals an "88" Play Symbol, the player wins DOUBLE 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 (20) 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 (20) 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 (20) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the twenty (20) 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. The "8" (WIN$) and "88" (DBL) Play Symbols may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

E. Non-winning Prize Symbols will never appear more than two (2) times.

F. The "8" (WIN$) and "88" (DBL) Play Symbols will only appear on winning Tickets as dictated by the prize structure.

G. Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

H. Non-winning Play Symbols will be different.

2.3 Procedure for Claiming Prizes.

A. To claim a "GREAT 8s" Scratch Ticket Game prize of $2.00, $4.00, $5.00, $10.00, $20.00, $50.00 or $100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $50.00 or $100 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "GREAT 8s" 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 "GREAT 8s" 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 "GREAT 8s" 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 "GREAT 8" 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. 2458. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2458 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$2.00	948,480	9.62
$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	4,940	1,846.15
$1,000	76	120,000.00
$30,000	5	1,824,000.00

*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 4.40. 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. 2458 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. 2458, 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-202204184
Bob Biard
General Counsel
Texas Lottery Commission
Filed: October 25, 2022

♦ ♦ ♦

Scratch Ticket Game Number 2503 "BREAK THE BANK"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2503 is "BREAK THE BANK". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2503 shall be $2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2503.

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, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 2X SYMBOL, 5X SYMBOL, $2.00, $4.00, $5.00, $10.00, $15.00, $20.00, $50.00, $200, $1,000, $3,000 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. 2503 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNI

30	TRTY
2X SYMBOL	DBL
5X SYMBOL	WINX5
$2.00	TWO$
$4.00	FOR$
$5.00	FIV$
$10.00	TEN$
$15.00	FFN$
$20.00	TWY$
$50.00	FFTY$
$200	TOHN
$1,000	ONTH
$3,000	THTH
$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 (2503), 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: 2503-0000001-001.

H. Pack - A Pack of the "BREAK THE BANK" 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 "BREAK THE BANK" Scratch Ticket Game No. 2503.

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 "BREAK THE BANK" 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 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 "2X" symbol, the player wins DOUBLE the PRIZE for that symbol. If the player reveals a "5X" symbol, the player wins 5 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. 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. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 04 and $4).

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

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

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

G. KEY NUMBER MATCH: A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. KEY NUMBER MATCH: The "2X" (DBL) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. KEY NUMBER MATCH: The "5X" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Scratch Ticket Game prize of $2.00, $4.00, $5.00, $8.00, $10.00, $15.00, $20.00, $50.00 or $200, 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 or $200 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 "BREAK THE BANK" Scratch Ticket Game prize of $1,000, $3,000 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 "BREAK THE BANK" 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 "BREAK THE BANK" 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 "BREAK THE BANK" 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 22,080,000 Scratch Tickets in Scratch Ticket Game No. 2503. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2503 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$2.00	2,119,680	10.42
$4.00	1,236,480	17.86
$5.00	264,960	83.33
$8.00	88,320	250.00
$10.00	441,600	50.00
$15.00	176,640	125.00
$20.00	176,640	125.00
$50.00	82,800	266.67
$200	9,200	2,400.00
$1,000	276	80,000.00
$3,000	130	169,846.15
$30,000	10	2,208,000.00

*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 4.80. 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. 2503 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. 2503, 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-202204185

Bob Biard
General Counsel
Texas Lottery Commission
Filed: October 25, 2022

♦ ♦ ♦

Scratch Ticket Game Number 2507 "EZ LOTERIA"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2507 is "EZ LOTERIA". The play style is "row".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2507 shall be $1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2507.

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:

ARMADILLO SYMBOL, BAT SYMBOL, BLUEBONNET SYMBOL, BOAR SYMBOL, CACTUS SYMBOL, CHERRIES SYMBOL, CHILE PEPPER SYMBOL, CORN SYMBOL, COVERED WAGON SYMBOL, COWBOY HAT SYMBOL, COWBOY SYMBOL, FIRE SYMBOL, GUITAR SYMBOL, HEN SYMBOL, HORSE SYMBOL, HORSESHOE SYMBOL, JACKRABBIT SYMBOL, LIZARD SYMBOL, LONE STAR SYMBOL, MARACAS SYMBOL, MOCKINGBIRD SYMBOL, MOONRISE SYMBOL, MORTAR PESTLE SYMBOL, NEWSPAPER SYMBOL, OIL RIG SYMBOL, PECAN TREE SYMBOL, PIÑATA SYMBOL, RATTLESNAKE SYMBOL, ROADRUNNER SYMBOL, SADDLE SYMBOL, SHOES SYMBOL, SPEAR SYMBOL, SPUR SYMBOL, STRAWBERRY SYMBOL, SUNSET SYMBOL, WHEEL SYMBOL, WINDMILL SYMBOL, $1.00, $2.00, $3.00, $5.00, $10.00, $20.00, $40.00, $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. 2507 - 1.2D

PLAY SYMBOL	CAPTION
ARMADILLO SYMBOL	ARMADILLO
BAT SYMBOL	BAT
BLUEBONNET SYMBOL	BLUEBONNET
BOAR SYMBOL	BOAR
CACTUS SYMBOL	CACTUS
CHERRIES SYMBOL	CHERRIES
CHILE PEPPER SYMBOL	CHILE PEPPER
CORN SYMBOL	CORN
COVERED WAGON SYMBOL	COVERED WAGON
COWBOY HAT SYMBOL	COWBOY HAT
COWBOY SYMBOL	COWBOY
FIRE SYMBOL	FIRE
GUITAR SYMBOL	GUITAR
HEN SYMBOL	HEN
HORSE SYMBOL	HORSE
HORSESHOE SYMBOL	HORSESHOE
JACKRABBIT SYMBOL	JACKRABBIT
LIZARD SYMBOL	LIZARD
LONE STAR SYMBOL	LONE STAR
MARACAS SYMBOL	MARACAS
MOCKINGBIRD SYMBOL	MOCKINGBIRD
MOONRISE SYMBOL	MOONRISE
MORTAR PESTLE SYMBOL	MORTAR PESTAL
NEWSPAPER SYMBOL	NEWSPAPER
OIL RIG SYMBOL	OIL RIG
PECAN TREE SYMBOL	PECAN TREE
PIÑATA SYMBOL	PIÑATA
RATTLESNAKE SYMBOL	RATTLESNAKE
ROADRUNNER SYMBOL	ROADRUNNER

SADDLE SYMBOL	SADDLE
SHOES SYMBOL	SHOES
SPEAR SYMBOL	SPEAR
SPUR SYMBOL	SPUR
STRAWBERRY SYMBOL	STRAWBERRY
SUNSET SYMBOL	SUNSET
WHEEL SYMBOL	WHEEL
WINDMILL SYMBOL	WINDMILL
$1.00	ONE$
$2.00	TWO$
$3.00	THR$
$5.00	FIV$
$10.00	TEN$
$20.00	TWY$
$40.00	FRTY$
$100	ONHN
$500	FVH

E. Serial No. - A unique 13 (thirteen) digit No. appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial No. is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack No., the three (3) digit Ticket No. and the ten (10) digit Validation No.. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket No. - A 14 (fourteen) digit No. consisting of the four (4) digit game No. (2507), a seven (7) digit Pack No., and a three (3) digit Ticket No.. Ticket No.s start with 001 and end with 150 within each Pack. The format will be: 2507-0000001-001.

H. Pack - A Pack of the "EZ LOTERIA" 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 "EZ LOTERIA" Scratch Ticket Game No. 2507.

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. Each Scratch Ticket contains exactly 22 (twenty-two) Play Symbols. A prize winner in the "EZ LOTERIA" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose Play Symbols as follows: PLAY INSTRUCTIONS: The player scratches ONLY the symbols on GAMES 1 - 3 that exactly match the 10 symbols revealed on the CALLER'S CARD. If the player reveals 3 symbols in the same GAME, the player wins the PRIZE for that GAME. INSTRUCCIONES DE JUEGO: El jugador SOLAMENTE raspa los símbolos en los JUEGOS 1 - 3 que son exactamente iguales a los 10 símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela 3 símbolos en el mismo JUEGO, el jugador gana el PREMIO para ese JUEGO. 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 22 (twenty-two) 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 No. and Game-Pack-Ticket No. must be present in their entirety and be fully legible;

7. The Serial No. 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 No. and Game-Pack-Ticket No. must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 22 (twenty-two) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial No. and exactly one Game-Pack-Ticket No. on the Scratch Ticket;

14. The Serial No. of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial No.s for winning Scratch Tickets, and a Scratch Ticket with that Serial No. 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 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) 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 No.s 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 No. must be printed in the Game-Pack-Ticket No. 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 three (3) 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. There will be no matching Play Symbols in the CALLER'S CARD/CARTA DEL GRITÓN play area.

D. Every GAME/JUEGO Grid will match at least one (1) Play Symbol to the CALLER'S CARD/CARTA DEL GRITÓN play area.

E. No three (3) matching non-winning Play Symbols will appear in adjacent positions diagonally or vertically, unless restricted by play action, prize structure or other parameters.

F. At least four (4), but not more than nine (9), CALLER'S CARD/CARTA DEL GRITÓN Play Symbols will match a symbol on the three (3) GAMEs/JUEGOs play areas.

G. No matching Play Symbols are allowed on the three (3) GAMEs/JUEGOs play areas.

2.3 Procedure for Claiming Prizes.

A. To claim a "EZ LOTERIA" Scratch Ticket Game prize of $1.00, $2.00, $3.00, $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 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. As an alternative method of claiming a "EZ LOTERIA" 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 No. or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not vali-

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

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 "EZ LOTERIA" 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 "EZ LOTERIA" 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 No. of prizes in a game is approximate based on the No. of Scratch Tickets ordered. The No. of actual prizes available in a game may vary based on No. of Scratch Tickets manufactured, testing, distribution, sales and No. 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 No. and Value of Scratch Prizes. There will be approximately 17,040,000 Scratch Tickets in Scratch Ticket Game No. 2507. The approximate No. and value of prizes in the game are as follows:

Figure 2: GAME NO. 2507 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$1	1,590,400	10.71
$2	1,022,400	16.67
$3	284,000	60.00
$5	511,200	33.33
$10	170,400	100.00
$20	28,400	600.00
$40	9,656	1,764.71
$100	2,840	6,000.00
$500	500	34,080.00

*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 4.71. 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 No. 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. 2507 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. 2507, 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-202204186
Bob Biard
General Counsel
Texas Lottery Commission
Filed: October 25, 2022

♦ ♦ ♦

Supreme Court of Texas

Final Approval of Amendments to the Form Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

Supreme Court of Texas

Misc. Docket No. 22-9090

Final Approval of Amendments to the Form Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

ORDERED that:

1. On December 23, 2020, in Misc. Dkt. No. 20-9154, the Court proposed amendments to the form Statement of Inability to Afford Payment of Court Costs or an Appeal Bond and invited public comment.

2. The final, bilingual version of the form is set forth in this order. This form replaces the prior version, effective immediately.

3. The Clerk is directed to:

    a. file a copy of this order with the Secretary of State;

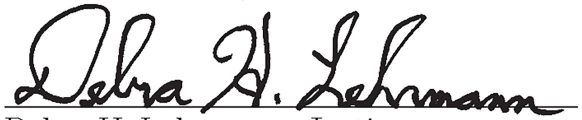
    b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;

    c. send a copy of this order to each elected member of the Legislature; and

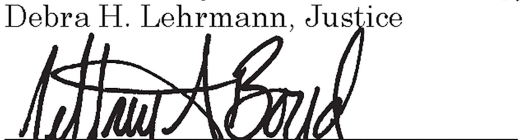
    d. submit a copy of this order for publication in the *Texas Register*.

Dated: October 20, 2022.

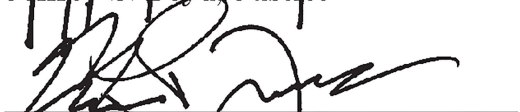
Nathan L. Hecht, Chief Justice



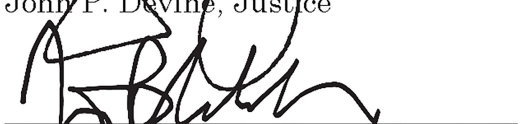
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice

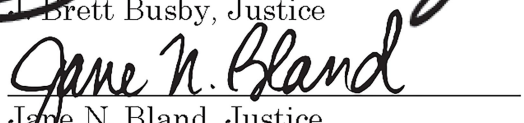


John P. Devine, Justice



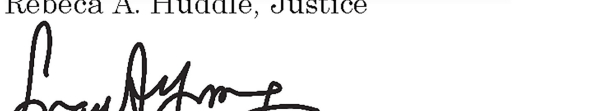
James D. Blacklock, Justice

J. Brett Busby, Justice



Jane N. Bland, Justice

Rebeca A. Huddle, Justice



Evan A. Young, Justice

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

AVISO: ESTE DOCUMENTO CONTIENE INFORMACIÓN CONFIDENCIAL

Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

Declaración sobre Incapacidad de Pago de Costas de Tribunal o de una Fianza de Apelación

Cause Number
Número de Caso _____

The Clerk's office will fill in the Cause Number when you file this form.

El Secretario del Tribunal anotará el Número de Caso cuando usted presente este formulario.

_____

v.

_____

Copy information listed at the top left of the petition here.

Copie aquí la información ubicada en la parte superior izquierda del escrito de la demanda.

Copy information listed at the top right of the petition here.

Copie aquí la información ubicada en la parte superior derecha del escrito de la demanda.

_____
Court Number
Número del Tribunal

_____,Texas
County
Condado

- ☐ District Court / Tribunal de Distrito
- ☐ County Court / Tribunal del Condado
- ☐ County Court at Law / Tribunal Estatutario
- ☐ Justice Court / Juzgado de Paz
- ☐ Probate Court / Juzgado Sucesorio

Approved by the Supreme Court of Texas in Misc. Docket No. 22-9090

1. Your Information / Su Información

- My full legal name is / Mi nombre legal completo es

  _____

  First Middle Last / Nombre de Pila Segundo Nombre Apellido

- My date of birth is / Mi fecha de nacimiento es

  _____

  Month Day Year / Mes Día Año

- My address is / Mi dirección es

  Home / Domicilio _____

  Mailing / Dirección Postal _____

- My phone number / Mi número telefónico _____

- My email I check often / Mi correo electrónico que reviso con frecuencia

  _____

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2. About My Dependents / Mis Dependientes

"The people who depend on me financially are listed below." **Use initials only for children under 18.** If needed, attach a separate piece of paper to list more dependents.

"Las personas a continuación dependen económicamente de mí." **Use iniciales para los menores de 18 años** y, si es necesario, anexe una hoja por separado para enumerar a todos sus dependientes.

Name Nombre	Age Edad	Relationship to me Parentesco Conmigo

3. Are you represented by Legal Aid? ¿Está siendo representado por alguna entidad de asistencia legal?

Check only one box. Seleccione solo una casilla.

☐ I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as "Exhibit: Legal Aid Certificate."

Me está representando gratuitamente un abogado que trabaja para una entidad de asistencia legal o que recibió mi caso de una entidad de asistencia legal. El certificado que la entidad de asistencia legal me entregó lo adjunto bajo el título, "Anexo: Certificado de Asistencia Legal."

or / o

☐ I am not represented by legal aid.

No me está representando ninguna entidad de asistencia legal.

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4. Public Benefits / Beneficios de Asistencia Pública

- Do you or any of your dependents receive public benefits?
  ¿Recibe usted o sus dependientes beneficios de asistencia pública?

☐ Yes / *Sí* ☐ No / *No*

- If you answered yes, check all that apply and attach proof to this form, such as a copy of an eligibility form or check.

  Si respondió con un Sí, marque todas las casillas que apliquen y adjunte a este formulario comprobantes, tales como una copia de la carta autorizando que reciba estos beneficios o una copia del cheque que recibe.

☐ Food stamps/SNAP
Cupones de comida/SNAP

☐ TANF

☐ Medicaid

☐ CHIP

☐ SSI/SSDI

☐ WIC

☐ Lifeline

☐ Public Housing or Section 8 Housing
Asistencia de Vivienda / Programa de Vivienda bajo Sección 8

☐ Low-Income Home Energy Assistance
Asistencia con Energía Eléctrica

☐ Community Care via HHS
Ayuda Comunitaria bajo HHS

☐ LIS in Medicare ("Extra Help")
Subsidio Adicional de Medicare bajo el Programa LIS

☐ Needs-based VA Pension
Pensión para Veteranos de Guerra en función a necesidades

☐ Child Care Assistance under Child Care and Development Block Grant
Asistencia con Guardería bajo el Programa CCDBG

☐ County Assistance, County Health Care, or General Assistance (GA)
Asistencia del Condado, Asistencia Médica del Condado, o Asistencia General (GA)

☐ Other / Otros beneficios

_____

☐ Other / Otros beneficios

_____

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5. What are your monthly income sources? ¿Cuáles son sus fuentes de ingresos mensuales?

- My **take-home** pay is $_____ in monthly wages.

  Mi **pago neto** es $_____ en sueldo mensual.

- I work as a _____ (your job title) for _____ (your employer).

  Yo trabajo como _____ (título de su puesto) para _____ (compañía o jefe).

- $_____ is my total **monthly** income / son mis ingresos totales **al mes**.

These are my income sources. Estas son mis fuentes de ingresos.

- $_____ in unemployment / en beneficios de desempleo.

  I have been unemployed since _____ (date).

  He estado desempleado desde _____ (indique fecha).

- $_____ in public benefits / en beneficios de Asistencia Pública.

- $_____ from people in my household other than my spouse / de ingresos de otras personas en mi hogar que no son de mi cónyuge.

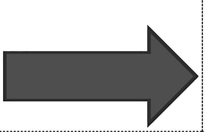
- $_____ from retirement or pension / de jubilación o pensión.

- $_____ from tips or bonus / de propinas o bonos.

- $_____ from disability / de discapacidad.

- $_____ from worker's comp / de compensación al trabajador.

- $_____ from social security / de seguro social.



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- $_____ from military housing / de vivienda militar.
- $_____ from dividends, interest, or royalties / de dividendos, intereses, o regalías.
- $_____ from child or spousal support / de manutención de menores o manutención conyugal recibida.
- Answer only if your spouse is not your opponent. Responda tan sólo si su ccónyuge no es parte contraria en esta causa legal.$_____ from my spouse's income / de ingresos de mi cónyuge.
- $_____ from other jobs/sources of income / de *otros* trabajos/ fuentes de ingresos.

  Describe / describa:

  _____

  _____

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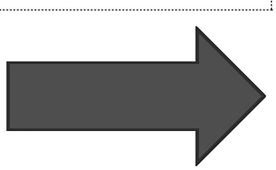
6. What is the value of your assets or property? ¿Cuál es el valor de sus bienes o propiedades?	
My property includes: Mis bienes incluyen:	Value / Valor The value is the amount the item would sell for less the amount you still owe on it, if anything. El valor de sus bienes es la cantidad por la que la propiedad o pertenencia se vendería, menos el monto que aún se adeuda, si lo hubiera.
➢ Cash Dinero en efectivo	$
➢ Bank accounts, other financial assets Cuentas bancarias, otros bienes financieros	
	$
	$
	$
➢ Cars and boats (make and year) Automóviles, lanchas (modelo y año)	
	$
	$
	$
➢ Other property like jewelry, stocks, land, a second house. (Do not list your homestead.) Otros bienes como joyas, acciones, terrenos, una segunda casa. (No indique su hogar familiar.)	
	$
	$
	$
Total Value of Property **Valor Total de Sus Bienes**	**$** 0



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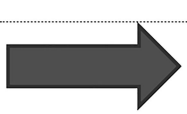
7. What are your monthly expenses that are not deducted from your paycheck? ¿Cuáles son sus gastos mensuales que no son descontados de su cheque de sueldo?	
My monthly expenses are: Mis gastos mensuales son:	Amount Cantidad
➢ Rent/house payments; maintenance Alquiler/hipoteca; mantenimiento de casa	$
➢ Food and household supplies Alimentos y artículos para el hogar	$
➢ Utilities and telephone Luz, gas, agua y teléfono	$
➢ Clothing and laundry Ropa y lavado de ropa	$
➢ Medical and dental expenses Gastos médicos y dentales	$
➢ Insurance (life, health, auto, etc.) Seguros (de vida, médico, de automóvil etc.)	$
➢ School and childcare Escuelas y guarderías	$
➢ Transportation, auto repair, gas Transportación, reparaciones de automóviles, gasolina	$
➢ Child/Spousal support Manutención a Menores/Manutención Conyugal	$
➢ Debt payments to (list): Pagos por deudas hechas a (indíquelos):	
	$
	$
➢ Wages withheld by court order Sueldo retenido por orden judicial	$
➢ Other expenses (list): Otros gastos (indíquelos):	
	$
	$
Total Monthly Expenses **Gastos Totales Mensuales**	**$** 0



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8. Are there debts or other facts explaining your financial situation? ¿Hay deudas u otros factores que expliquen su situación económica?

My debts include (list debt and amount owed):
Mis duedas incluyen (indique deuda y la cantidad que debe):

	$
	$
	$
	$
	$

If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts."

Si usted desea que el tribunal considere otros factores, tales como gastos médicos excepcionales, emergencias familiares, etc., adjunte al formulario otra hoja con esta información y bajo el título, "Anexo: Información Adicional de Apoyo."

9. Ability to Pay Court Costs. Declaración sobre su Habilidad de Pagar Costas de Tribunal

Check only one box. Seleccione tan solo una casilla.

☐ I cannot afford to pay court costs. No puedo pagar las costas de tribunal.

☐ I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision, and I cannot afford to pay court costs.

No puedo aportar una fianza de apelación ni pagar un depósito en efectivo para apelar la decisión judicial de un magistrado, y no puedo pagar costas de tribunal.

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10. Declaration/Affidavit. Declaración Escrita Bajo Juramento.

Fill out **only one** box. If you fill out the Declaration, you will not need to sign the form in front of a notary public. If you do not want to list your address for privacy or safety concerns, take the form and photo identification, and fill out the Affidavit box in front of a notary public.

Llene tan **solo una** opción. Si usted llena la Declaración, no necesitará firmar el formulario ante un notario. Si usted no quiere que aparezca su domicilio en el documento para conservar su privacidad o por motivos de su seguridad, lleve el formulario y una identificación con fotografía y llene la sección de la Declaración Escrita Bajo Juramento ante un Notario.

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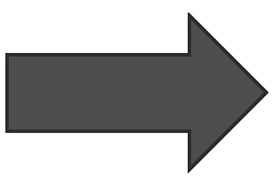

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Option 1 / Opción 1

Declaration: I declare under penalty of perjury that the foregoing is true and correct.

Declaración: Yo declaro bajo pena de perjurio que la información a continuación es correcta y verdadera.

- My name is / Mi nombre es

_____

- My date of birth is / Mi fecha de nacimiento es

_____/_____/_____

- My address is / Mi domicilio es

_____
Street, city, zip, country
Calle y número, ciudad, estado, código postal, pais

- _____
  Signature
  Firma

- 10/24/2022
  _____
  Date (month, day, year)
  Fecha (mes, día, año)

- _____
  County, state
  Condado, estado

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Option 2 / Opción 2

Affidavit: I swear under penalty of perjury that the foregoing is true and correct.

Declaración Escrita Bajo Juramento: Yo juro bajo pena de perjurio, que lo que precede es correcto y verdadero.

You fill out this section.
Usted llena esta sección.

➢ _____
Your printed name
Su nombre en letra de molde

➢ _____
Your signature
Su firma

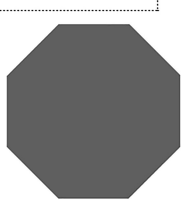
The notary fills out this section.
El Notario llena esta sección.

➢ _____

Subscribed before me this day of
Juramentado y suscrito ante mí el día de hoy del mes de

_____, 20____

_____
NOTARY
NOTARIO



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TRD-202204183
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: October 24, 2022

♦ ♦ ♦


TEXAS

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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