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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 41-3963

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 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, pursuant to the Texas Disaster Act of 1975, I have issued a series of executive orders and suspensions of Texas laws aimed at protecting the health and safety of Texans, ensuring uniformity throughout the State, and achieving the least restrictive means of combating the evolving threat posed by COVID-19; and

WHEREAS, Executive Orders GA-13, GA-37, GA-38, GA-39, and GA-40 remain in effect with "the force and effect of law" under Section 418.012 of the Texas Government Code; and

WHEREAS, ending the disaster declaration would terminate the executive orders that protect Texans' freedom by suspending the power of local governments to require masks, compel vaccinations, and close businesses; and

WHEREAS, I intend to keep these executive orders and suspensions in place until the Legislature can enact laws this session to prohibit local governments from imposing restrictions like mask mandates and vaccine mandates; and

WHEREAS, renewing the disaster declaration in no way infringes on the rights or liberties of any law-abiding Texans; and

WHEREAS, under the Texas Disaster Act of 1975, a state of disaster continues to exist in all counties during Texas' successful economic recovery from 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.

Under the terms of Executive Orders GA-38, GA-39, and GA-40, all of which remain in effect by virtue of this renewal, local governments are divested of any lawful authority to subject Texans to mask mandates, vaccine mandates, or business-closure mandates. As a matter of state law, COVID-19 cannot justify those local intrusions upon personal liberty.

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.

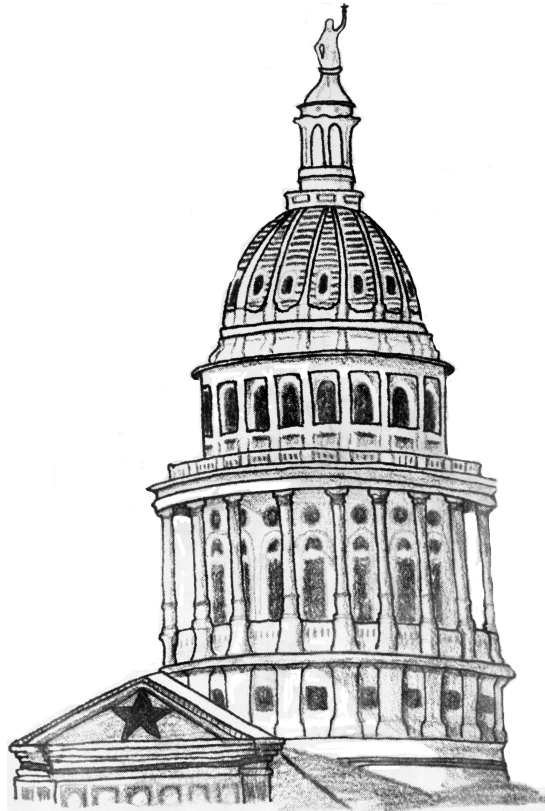
In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

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 16th day of March, 2023.

Greg Abbott, Governor

TRD-202301086





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-0501-KP

Requestor:

The Honorable Heather Stebbins

Kerr County Attorney

700 Main Street, Suite BA-103

Kerrville, Texas 78028

Re: Questions relating to the respective responsibilities of a county sheriff's office and the Texas Department of Criminal Justice regarding the detention and transportation of offenders to state jail facilities (RQ-0501-KP)

Briefs requested by April 10, 2023

RQ-0502-KP

Requestor:

The Honorable Brandon Creighton

Chair, Senate Committee on Education

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Constitutionality of legislation creating a Texas Education Savings Account program for Texas children (RQ-0502-KP)

Briefs requested by March 17, 2023

RQ-0503-KP

Requestor:

Mr. Dale Atchley, CPA

Nueces County Auditor

901 Leopard Street, Room 304

Corpus Christi, Texas 78401-3689

Re: Questions related to county's responsibility to provide a legal defense and to reimburse defense costs under Local Government Code section 157.901 or the common law to a district attorney subject to a removal proceeding brought under Local Government Code chapter 87 (RQ-0503-KP)

Briefs requested by April 14, 2023

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

TRD-202301132

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: March 21, 2023



Opinions

Opinion No. KP-0435

Ms. Nichole Mock

Wheeler County Auditor

Post Office Box 69

Wheeler, Texas 79096

Re: Authority of a county to use tax revenue to pay a supplement to a hospital district in the county (RQ-0474-KP)

S U M M A R Y

The hospital district in which a county taxpayer resides and votes is of no legal consequence when it comes to the expenditure of county property tax revenue.

A county entering into an agreement with a hospital district to provide ambulance services in the county will not violate article III, subsection 52(a) of the Texas Constitution as long as the county: (1) ensures that the transfer of funds is to accomplish a public purpose of the county, not to benefit private parties; (2) retains public control over the funds to ensure that the public purpose is accomplished and to protect the public's investment; and (3) ensures that the county receives a return benefit. Whether an agreement satisfies the three-part test is for the county commissioners court to determine in the first instance, subject to judicial review.

A "debt" as defined by Tax Code subsection 26.012(7) requires, among other things, that the indebtedness be "payable from property taxes in installments over a period of more than one year[.]" A court would likely conclude that an indebtedness payable in installments is one payable in periodic partial payments and, thus, an indebtedness payable in a lump sum over a period of one year or less does not constitute a debt as defined in subsection 26.012(7).

Opinion No. KP-0436

The Honorable B.D. Griffin
Montgomery County Attorney
501 North Thompson, Suite 300
Conroe, Texas 77301

Re: Authority of a county under Transportation Code chapter 251 to abandon or rename a public road not included in the county maintenance system (RQ-0475-KP)

S U M M A R Y

Transportation Code chapter 251 governs general county authority relating to roads and bridges. A court would likely conclude that subsection 251.051(a)(1) authorizes a commissioners court to abandon a public road that has not been accepted into a county's road maintenance system. Likewise, a court would likely conclude that subsection 251.013(b) authorizes a commissioners court to name or rename a public road that has not been accepted into the county's road maintenance system.

Opinion No. KP-0437

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)

S U M M A R Y

Local Government Code chapters 303 and 375 respectively govern public facility corporations (PFCs) and municipal management districts (MMDs), including authorizing the creation of a PFC by a MMD. A court could conclude that, as a general matter, the two chapters allow a PFC to acquire real estate for leasehold outside its geographic boundaries. Whether a PFC should have this authority and the limitations of such authority are policy questions for the Legislature, especially when impacting taxing authority for another district.

Opinion No. KP-0438

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)

S U M M A R Y

A court could conclude that section 363.113 of the Health and Safety Code authorizes the City of Escobares to provide solid waste disposal service in the extraterritorial jurisdiction as a means of assuring solid waste management service is provided to all persons in the City's jurisdiction.

Opinion No. KP-0439

The Honorable Brandon Creighton
Chair, Senate Committee on Education
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Re: Constitutionality of legislation creating a Texas Education Savings Account program for Texas children (RQ-0502-KP)

S U M M A R Y

Texas's Blaine Amendments--article I, section 7, and article VII, subsection 5(c) of the Texas Constitution--violate the Free Exercise Clause of the First Amendment to the United States Constitution. Accordingly, any law, action, or policy implemented in accordance with their prohibitions would be unconstitutional.

An Education Savings Account program offering parents and students education assistance payments that can be directed to public and private schools, including "sectarian" schools, and that offers parents and students a genuine and independent choice to select a private religious school does not violate the Establishment Clause.

An ESA program does not violate article VII, section 1, or subsection 5(c) of the Texas Constitution to the extent the program is an additional educational initiative and is not funded from the permanent school fund or available school fund.

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

TRD-202301133
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: March 21, 2023



PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER L. LOCAL FUNDS

MONITORING

1 TAC §355.8707

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §355.8707, concerning Notification Requirements for the Creation of a Local Provider Participation Fund (LPPF).

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement House Bill 4289, 86th Legislature, Regular Session, 2019 by establishing a process that requires certain political subdivisions to notify HHSC of the creation of a new local provider participation fund (LPPF) as authorized by Texas Health and Safety Code Chapter 300 or Texas Health and Safety Code Chapter 300A. This rule will ensure that HHSC receives appropriate and timely notices of newly created LPPFs, which will enable the agency to maintain oversight and reduce the risk of federal recoupment.

The proposal is also necessary to comply with the requirements of 42 CFR §433.51, Public Funds as the State share of Financial Participation, 42 CFR §433.68, Permissible Health Care-Related Taxes, 42 CFR §433.74, Reporting Requirements, and Section 1903(w)(1)(A)(i)-(iii) of the Social Security Act.

SECTION-BY-SECTION SUMMARY

Proposed new §355.8707(a) provides for the required notification and specifies content of the notification, including where to direct the notification, contact information for the political subdivision, and documents related to LPPF formation and adoption. Subsection (b) clarifies that any political subdivision implementing an LPPF is subject to annual local funds monitoring reporting requirements.

FISCAL NOTE

Trey Wood, 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 an existing rule;
- (7) the proposed rule will increase 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, Chief Financial Officer, has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural community impact related to the rule because there is no requirement to alter current business practices. In addition, no rural communities contract with HHSC in any program or service affected by the proposed rule.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to receive a source of federal funds or comply with federal law and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public will benefit from the continuation of local jurisdictions' support of the Medicaid program.

Trey Wood, Chief Financial Officer, 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 the proposed rule specifies a structured process for political subdivisions that create an LPPF to follow in order to meet the existing requirements of data submission and reporting system training.

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 Frances Morgan, Director of PFD Local Funds Monitoring, 4601 Guadalupe Street, Mail Code H400, Austin, Texas, 78751 or by email to PFD_LFM@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 post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R120" in the subject line.

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Health and Safety Code §300.0154 and §300A.0154, which require the Executive Commissioner of HHSC to adopt rules relating to LPPF reporting.

The new rule affects Texas Government Code §531.0055; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a); and Texas Health and Safety Code §300.0154 and §300A.0154.

§355.8707. Notification Requirements for the Creation of a Local Provider Participation Fund (LPPF).

(a) A local government, as defined in Texas Health and Safety Code Chapter 300, or a district, as defined in Texas Health and Safety Code Chapter 300A, that creates a new local provider participation fund (LPPF) as authorized by those chapters must send HHSC notice of the creation of a new LPPF according to the following procedures.

(1) HHSC must receive notice of a newly created LPPF electronically to PFD_LFM@hhs.texas.gov no later than 10 business days from the date of the local government or district's creation of the LPPF.

(2) The notice must contain the following.

(A) Contact information for at least two employees, board members, or elected officials of the local government or district authorized to implement an LPPF, as well as any individuals the local government or district authorizes to receive informational updates related to LPPF formation and reporting. Contact information shall include:

(i) full names;

(ii) titles and description of involvement with the LPPF (if not an employee, board member, or elected official of the local government or district);

(iii) email addresses; and

(iv) phone numbers.

(B) Audio recordings of discussions or written minutes from public meetings, such as commissioner's court meetings or hospital district board meetings, that document the approval of LPPF formation and any associated rate setting.

(C) Resolution approving rules and procedures for LPPF mandatory assessment payments.

(D) Resolution authorizing the formation of the LPPF, collection of a mandatory assessment payment, and use of funds from the mandatory assessment payments.

(E) Public notices from a hardcopy or digital source, such as a newspaper article, notifying providers in the jurisdiction of the intent to create an LPPF and set associated rates.

(F) Copies of written notice provided to the chief operating officer of each provider that will be required to pay a mandatory assessment.

(G) Invoices or other records of LPPF mandatory assessments and payments received from providers, if any have been made at the time notice is provided to HHSC.

(H) Any agreements between the local government or district implementing the LPPF (including a local government that created the district under Texas Health and Safety Code §300A.0021) and a health care provider or entity related to a health care provider that is required to pay a mandatory assessment, if applicable.

(3) On receipt of a notice for the creation of an LPPF, HHSC:

(A) acknowledges receipt of the notice to the local government or district; and

(B) reviews the information submitted by the local government or district.

(i) HHSC may request additional information from the local government or district. The additional information must be received by HHSC no later than 10 business days from the date of the written request for additional information.

(ii) HHSC will extend this deadline for an additional 10 business days if it receives a request for the extension prior to the initial 10 business day due date. A request for an extension that is not received by the stated deadline will not be accepted.

(4) No local government or district may transfer local funds generated by an LPPF to HHSC via IGT until it has completed the following steps.

(A) Notify HHSC of the creation of the LPPF in accordance with this section and receive acknowledgement of receipt from HHSC.

(B) Provide HHSC with any additional information requested by HHSC as provided in this section.

(C) Establish a unique TexNet Account through the Texas Comptroller.

(D) Establish a Texas Identifier Number (TIN) through the Provider Finance Department by emailing RAD_Payments@hhs.texas.gov.

(b) Any local government or district that creates an LPPF is subject to annual reporting requirements under 1 TAC Chapter 355, Subchapter L (relating to Local Funds Monitoring).

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 March 16, 2023.

TRD-202301085

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: April 30, 2023

For further information, please call: (737) 867-7877



TITLE 4. AGRICULTURE

PART 13. PRESCRIBED BURNING BOARD

CHAPTER 225. GENERAL PROVISIONS

4 TAC §§225.1 - 225.4

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), proposes amendments to 4 TAC §§225.1 - 225.4.

The Board identified the need for the amendments during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §225.1 remove definitions of terms that are not used in Title 4, Part 13 and clarify the definition of "sponsor".

The proposed amendments to §225.2 add "certified and insured" before "prescribed burn manager" to standardize terminology used in this part, and remove language that is unnecessary because it is provided by statute.

The proposed amendments to §225.3 remove an unnecessary cross reference to TCEQ rules.

The proposed amendments to §225.4 make editorial changes and remove the 30 day deadline for certified and insured prescribed burn managers to notify the Department of changes to their information.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposed amendments will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, the Department has determined the following:

1. the proposed amendments do not create or eliminate a government program;
2. implementation of the proposed amendments does not require the creation or elimination of employee positions;

3. implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Department;

4. the proposed amendments do not require an increase or decrease in fees paid to the Department;

5. the proposed amendments do not create a new regulation;

6. the proposed amendments will not expand, limit, or repeal an existing regulation;

7. the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

8. the proposed amendments do not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year period the proposed amendments are in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year period the proposed amendments are in effect, there will be no cost to persons who are required to comply with the proposed amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments, therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposed amendments may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§225.1. Definitions.

The following words and terms, when used in Title 4, Part 13 of the Texas Administrative Code, shall have the following meanings, unless the context clearly indicates otherwise.

~~{(1) Act—Prescribed Burning, Chapter 153, Texas Natural Resources Code.}~~

~~[(2) AgriLife Extension--Texas A&M AgriLife Extension Service.]~~

~~[(3) AgriLife Research--Texas A&M AgriLife Research.]~~

~~(1) [(4)] Board--Prescribed Burning Board.~~

~~(2) [(5)] Burn Boss--Individual responsible for the direct application of prescribed fire to a burn unit as detailed in a written prescribed burn plan.~~

~~[(6) Commissioner--The Commissioner of Agriculture of the state of Texas, or the Commissioner's designee.]~~

~~(3) [(7)] Certified and Insured Prescribed Burn Manager--A person with ultimate authority, and responsibility for a prescribed burn, and liability insurance coverage as required by §227.1 of this title (relating to Minimum Insurance Requirements), who has been certified by the Board.~~

~~(4) [(8)] CFT--Continuing Fire Training.~~

~~[(9) Code--Texas Administrative Code.]~~

~~(5) [(10)] Department--The Texas Department of Agriculture.~~

~~(6) [(11)] Governmental Unit--A state agency, local government, or an entity acting on behalf of a state agency or institution or local government, as defined by §2259.001 of the Texas Government Code.~~

~~(7) [(12)] Lead Burn Instructor--An individual who provides leadership and coordination in the conduct of a board-approved certified and insured prescribed burn manager course and has authority to select all instructors.~~

~~(8) [(13)] Local Government--A municipality or other political subdivision of this state or a combination of political subdivisions, including a combination created under Chapter 791 of the Texas Government Code.~~

~~[(14) NRCS--Natural Resources Conservation Service of the United States Department of Agriculture.]~~

~~(9) [(15)] NWCG--National Wildfire Coordinating Group.~~

~~(10) [(16)] Prescribed Burning--The controlled application of fire to fuels under specified environmental conditions in accordance with a written prescribed burn plan.~~

~~(11) [(17)] Prescribed Burning Organization--An entity established for the purpose of promoting the use of prescribed burning as a tool for land management, including an entity established to represent interests of persons involved in land conservation and/or land management.~~

~~(12) [(18)] Sponsor--An [approved university, governmental agency, an association, a private independent business, or other qualified] entity approved [by the Board] to conduct continuing [fire] training activities used to meet continuing [for credit toward prescribed burn manager certification and continued] fire training requirements.~~

~~(13) [(19)] Structures containing sensitive receptors--A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "man-made structure" does not include such things as range fences, roads, bridges, hunting blinds or facilities used solely for the storage of hay or other livestock feeds. The term "sensitive live vegetation" is defined as vegetation which has potential to be damaged by smoke and heat, examples of which include, but are not limited to: nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.~~

~~[(20) TAMU--Texas A&M University, or a branch of the Texas A&M University system.]~~

~~(14) [(21)] TFS--Texas A&M Forest Service.~~

~~(15) [(22)] TCEQ--Texas Commission on Environmental Quality.~~

~~[(23) TPWD--Texas Parks and Wildlife Department.]~~

~~[(24) TSSWCB--Texas State Soil and Water Conservation Board.]~~

~~[(25) TTU--Texas Tech University or a branch of the Texas Tech University System.]~~

~~[(26) USDA--United States Department of Agriculture.]~~

~~§225.2. Categories of [Prescribed Burn Manager] Certification.~~

~~[(a)] Certified and insured prescribed [Prescribed] burn managers may be certified in one of the following categories:~~

~~(1) Commercial Certified and Insured Prescribed Burn Manager. A commercial certified and insured prescribed burn manager may conduct prescribed burns for hire on any property allowed by his or her certification, including that of his or her employer.~~

~~(2) Private Certified and Insured Prescribed Burn Manager. A private certified and insured prescribed burn manager conducts prescribed burns on property owned by, leased by, or occupied by the private certified and insured prescribed burn manager or that person's employer. An employee qualifies as a private certified and insured prescribed burn manager if he or she is employed to perform duties related to the operation and conducts prescribed burning activities[,] but does not provide the necessary equipment.~~

~~(3) Not-for-Profit Certified and Insured Prescribed Burn Manager. A not-for-profit certified and insured prescribed burn manager conducts prescribed burns on property owned or leased by a prescribed burning organization or on property owned or leased by a person who is a member of a prescribed burning organization. For purposes of this section, a prescribed burning organization must be an association, cooperative, or organization legally formed and authorized under Texas law, or a domestic entity legally formed under the Texas Business Organizations Code, and must:~~

~~(A) hold a certificate of account status from the Texas Comptroller of Public Accounts reflecting that the association, cooperative, organization, or domestic entity is current in paying all franchise taxes due under Texas law, or provide appropriate documentation, issued by the Texas Comptroller of Public Accounts, or in a form approved by the Board, that the association, cooperative, organization, or domestic entity is exempt from the payment of franchise taxes under Texas law;~~

~~(B) have its registered office and principal place of business in the State of Texas; and~~

~~(C) provide, as one of the primary purposes of the organization, education and training to its members or shareholders regarding the safe and effective use of prescribed burning within the State of Texas as an agricultural, ranching, and land management practice, or provide education and other resources to its member or shareholders regarding land conservation and management.~~

~~(4) Governmental Certified and Insured Prescribed Burn Manager. A certified and insured prescribed burn manager employed by and acting on behalf of a government unit must apply for certification to act as a certified and insured prescribed burn manager as an authorized employee of a governmental unit. A governmental certified and insured prescribed burn manager is limited to conducting pre-~~

scribed burns on property owned, leased, or controlled by the governmental unit while acting in the course and scope of his or her duties as an employee of the governmental unit.

~~[(b) The Board shall have sole and absolute discretion to determine whether an applicant meets the requirements necessary for the category of certification.]~~

~~[(c) Additional insurance requirements may apply to each category as determined by the Board.]~~

§225.3. Minimum Standards for Prescribed Burning.

~~[(a) TCEQ regulates outdoor burning in Texas. TCEQ requirements may be found at Texas Administrative Code, Title 30, Chapter 111, Subchapter B (relating to Outdoor Burning).]~~

~~[(b)]~~ The prescribed burning standards established by the Board represent the minimum requirements for conducting prescribed burning in the state of Texas as a certified and insured prescribed burn manager. These standards are established to ensure that every reasonable precaution is taken to prevent prescribed burns from escaping the perimeter of the burn area and to minimize the effects of smoke emissions as outlined in the written prescribed burn plan. The standards do not, and are not intended to, preempt or supersede requirements established by state, federal, or private natural resource management organizations, but rather, are intended to serve as a baseline for effectively planning and conducting prescribed burns as a certified and insured prescribed burn manager.

§225.4. Duty to Report.

(a) ~~A~~ An applicant or a certified and insured prescribed burn manager or applicant must:

(1) timely respond to all requests for information from the Board regarding an application, renewal, insurance, or prescribed burning activities conducted by the certified and insured prescribed burn manager; and

(2) notify the Department ~~[within 30 days]~~ of any change in personal ~~[the]~~ information ~~[provided as part of the application for certification]~~.

(b) If a certified and insured prescribed burn manager fails to timely report the information as required by subsection (a) of this section, a certified and insured prescribed burn manager is subject to administrative sanctions as set forth in §§153.102 - 153.104 of the Natural Resources Code, including the enforcement rules and schedule of disciplinary sanctions adopted by the Department.

(c) Failure to provide information required in this section may be grounds for denial of an application or may result in the suspension or revocation of a certification.

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

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Skyler Shafer

Assistant General Counsel

Prescribed Burning Board

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For further information, please call: (512) 936-9360



CHAPTER 226. REQUIREMENTS FOR CERTIFICATION BY THE BOARD

4 TAC §§226.1 - 226.3, 226.5 - 226.7

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), proposes amendments to 4 TAC §§226.1 - 226.3, 226.5 - 226.7.

The Board identified the need for the amendments during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §226.1 reorganize cross references to other Board rules.

The proposed amendments to §226.2 remove unnecessary language, as provisions for compliance and renewal are already addressed by statute and other rules.

The proposed amendments to §226.3 clarify the necessary experience required to become a certified and insured prescribed burn manager, and remove unnecessary language.

The proposed amendments to §226.5 remove the subsection that provides fees will be prorated based on when an application is submitted, and make editorial changes.

The proposed amendments to §226.6 allow the Department, in addition to the Board, to approve deadline extensions, and make editorial changes.

The proposed amendments to §226.7 remove the subsection related to reciprocity with New Mexico, Oklahoma, Louisiana, or a federal agency, and make editorial changes.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposed amendments will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, the Department has determined the following:

1. the proposed amendments do not create or eliminate a government program;
2. implementation of the proposed amendments does not require the creation or elimination of employee positions;
3. implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Department;
4. the proposed amendments do not require an increase or decrease in fees paid to the Department;
5. the proposed amendments do not create a new regulation;
6. the proposed amendments will not expand, limit, or repeal an existing regulation;
7. the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

8. the proposed amendments do not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year period the proposed amendments are in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year period the proposed amendments are in effect, there will be no cost to persons who are required to comply with the proposed amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments, therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposed amendments may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§226.1. *Application for Certification.*

(a) To be eligible for certification as a certified and insured prescribed burn manager, an individual must submit the following to the Department:

- (1) a signed application on a form prescribed by the Board;
 - (2) documentation of experience, as set forth in §226.3 of this title (relating to Experience);
 - (3) documentation of training, as set forth in §226.4 of this title (relating to Training);
 - (4) [(2)] the required fee, set forth in §226.5 of this title (relating to Fees); and
 - (5) [(3)] proof of insurance coverage that meets the minimum requirements of §227.1 of this title (relating to Minimum Insurance Requirements). [;]
- [(4) documentation of training, as set forth in §226.3 of this title (relating to Experience); and]

[(5) documentation of experience, as set forth in §226.4 of the title (relating to Training).]

(b) In accord with §2.1 of this title (relating to Application for a License), an incomplete application for certification shall become void on the one-year anniversary of the submission of the incomplete application and an applicant will be required to resubmit the application. This action is not a denial of a license for any purpose under the Texas Government Code, the Texas Agriculture Code, or these rules.

§226.2. *Term of Certification.*

[(a)] A certification shall be effective for a period of two years[; contingent on compliance with all qualifications required under the Natural Resources Code, Chapter 153 and the rules adopted by the Board thereunder; including continuing training and insurance verification requirements].

[(b) A certified and insured prescribed burn manager must renew the certification prior to the expiration every two years.]

§226.3. *Experience.*

[(a)] To become [be certified as] a certified and insured prescribed burn manager, an applicant must:

(1) demonstrate the following minimum level of experience:

(A) [(4)] a minimum of three years' experience [years] of prescribed burning [as a member of a burn team]; [and]

(B) [(2)] a minimum of thirty days' experience conducting [30 days of] prescribed burns; and [; with at least 5 of those days]

(C) a minimum of five days' experience as the individual responsible for all aspects of the prescribed burn; or [-]

(2) [(b)] submit [An individual that submits] documentation of achievement of NWCG Prescribed Burn Boss Type 2 (RXB2) [meets the experience qualifications required by this section].

[(c) The Board may determine that other proof of experience submitted may qualify to meet the requirements of this section, or that additional experience is needed to meet the requirements of this section.]

[(d) There shall be no exception to the requirement of experience for any individual seeking certification as a certified and insured prescribed burn manager.]

§226.5. *Fees.*

(a) All applications [applicants] for certification or renewal must be accompanied with the [submit a \$500] certification fee determined by [to] the Department.

[(b) Fees will be prorated based on when the application for certification is submitted, as outlined on the application.]

(b) [(c)] Fees will [A fee paid in association with a void application or denied renewal shall] not be refunded for denied applications.

(c) [(d)] Renewal fees submitted after the expiration date of the certification are subject to late fees prescribed in §12.024 of the Texas Agriculture Code.

§226.6. *Renewal of Certification.*

(a) The Department will send notice to certified and insured prescribed burn managers at least 30 days prior to the expiration of a certification to the last known contact information provided. [At least 30 days prior to the expiration of a certification for prescribed burn manager, the Department will attempt to send notice to the certified and

insured prescribed burn manager at the last known contact information provided to the Department.]

(b) To be eligible for certification renewal, a certified and insured prescribed burn manager must submit the following to the Department:

(1) the certification renewal fee;

(2) ~~completion and~~ certification of six ~~[hours of]~~ CFT hours ~~[credits]~~ for the two-year period preceding the renewal in the following categories of instruction:

(A) one hour of instruction dedicated to laws and regulations;

(B) one hour of instruction dedicated to smoke management; and

(C) four hours of instruction in any additional topics as listed in §229.2 and §229.3 of this title (relating to Wildland Firefighting and Approval of Continuing Fire Training Activity [§§229.2 - 229.3 of this chapter, relating to wildland firefighting or approval of continuing fire training activity]); and

(3) proof of liability insurance coverage.

(c) If a prescribed burn manager seeking renewal under this section fails to meet the CFT requirements, the application for renewal will not be approved until the applicant can demonstrate attainment of the minimum number of CFT hours [credits].

(d) A certified and insured prescribed burn manager may file a written request for an extension of time for compliance with any deadline in these rules. Such request for extension may be granted by the Board or the Department if the applicant files appropriate documentation to show good cause for failure to comply timely with the requirements of this subsection. Good cause includes extended illness, extended medical disability, or other extraordinary hardship which is beyond the control of the certified and insured prescribed burn manager.

(e) A certified and insured prescribed burn manager who fails to satisfy all requirements necessary for certification within one year following the expiration of the certification must submit a new application for certification as described in §226.4 of this chapter (relating to Training).

§226.7. Reciprocity of Certification.

~~[(a) The Board may enter into a memorandum of agreement with the state(s) of New Mexico, Oklahoma, and/or Louisiana, or a federal agency for reciprocity in certification of prescribed burn managers.]~~

~~[(b)] Applicants seeking reciprocity in certification must submit an application, including fee, demonstrating that the applicant:~~

~~(1) meets the training and experience requirements of this chapter [as required by Chapter 228 of this title (relating to Procedures for Certified and Insured Prescribed Burn Managers)]; and~~

~~(2) meets insurance coverage requirements set forth in §227.1 of this title (relating to Minimum Insurance Requirements) [by maintaining a liability insurance policy demonstrating coverage of at least \$1 million per occurrence, and \$2 million aggregate].~~

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

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Skyler Shafer

Assistant General Counsel

Prescribed Burning Board

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For further information, please call: (512) 936-9360

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CHAPTER 227. REQUIREMENTS FOR CERTIFIED AND INSURED PRESCRIBED BURN MANAGERS

4 TAC §227.1, §227.4

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), proposes amendments to 4 TAC §227.1, §227.4, and the repeal of §227.3. The proposed amendments and repeal are referred to as the proposal.

The Board identified the need for the proposal during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §227.1 require documentation of any conditions, endorsements, exceptions or limitations to the liability insurance policy carried by a certified and insured prescribed burn manager to be disclosed to the Department in addition to the Board, require proof of insurance to be submitted annually instead of by December 31, and make editorial changes.

The repeal of §227.3 is proposed clarify the necessary experience required to become a certified and insured prescribed burn manager, and remove unnecessary language.

The proposed amendments to §227.4 change the requirements for maintenance of prescribed burn records and make editorial changes.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposal will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposal. For each year of the first five years the proposal will be in effect, the Department has determined the following:

1. the proposal does not create or eliminate a government program;
2. implementation of the proposal does not require the creation or elimination of employee positions;
3. implementation of the proposal does not require an increase or decrease in future legislative appropriations to the Department;
4. the proposal does not require an increase or decrease in fees paid to the Department;
5. the proposal does not create a new regulation;
6. the proposal will repeal an existing regulation, but not expand or limit an existing regulation;

7. the proposal does not increase or decrease the number of individuals subject to the rule's applicability; and

8. the proposal does not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposal is in effect, enforcing or administering the proposal does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year period the proposal is in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year period the proposal is in effect, there will be no cost to persons who are required to comply with the proposal.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposal, therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposal may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§227.1. *Minimum Insurance Requirements.*

(a) At all times during the certification period, a certified and insured prescribed burn manager must maintain liability insurance coverage that insures the certified and insured prescribed burn manager for damages to any persons or any property occurring as a result of prescribed burning activities conducted under Natural Resources Code, Chapter 153, and the rules adopted thereunder, in the following minimum amounts:

(1) at least \$1 million of liability coverage for each single occurrence of bodily injury to or destruction of property; and

(2) a policy period minimum aggregate limit of at least \$2 million.

(b) Documentation of any conditions, endorsements, exceptions or limitations to the liability insurance policy must be [must be] disclosed to the Board and the Department [or its designee].

(c) To demonstrate proof of coverage, a certificate of insurance from an insurance company or the declaration page including detailed policy information are considered valid documentation.

~~(c) The following is considered valid documentation to demonstrate proof of coverage:—~~

~~[(1) certificate of insurance from an insurance company, including the declaration page and detailed policy information; or]~~

~~[(2) a document approved by the Board.]~~

(d) In lieu of a liability insurance coverage policy, a certified and insured prescribed burn manager sponsored or employed by a governmental unit may submit proof of minimum coverage requirements through a self-insurance program that meets the minimum coverage requirements of subsection (a) of this section. The governmental unit must submit:

(1) a certificate of self-insurance; or

(2) a letter certifying the existence of a fund or program of the governmental unit.

(e) Annually [~~By December 31 annually~~], each certified and insured prescribed burn manager must submit proof of minimum coverage requirements demonstrating compliance with the requirements set forth in subsections [~~subsection~~] (a) or (d) of this section.

(f) A certified and insured prescribed burn manager must immediately notify the Department in writing in the event of a change, reduction, lapse, or cancellation of liability insurance coverage. If liability insurance coverage lapses or falls below the minimum requirements set forth in subsection (a) of this section, the certification may be suspended or revoked [~~; in accordance with the procedures set forth in Title 4, Part 1, Chapter 4, Subchapter A of this title (relating to Enforcement, Investigation, Penalties and Procedures)]~~.

§227.4. *Maintenance of Prescribed Burn Records.*

(a) A certified and insured prescribed burn manager must maintain the following records:

(1) a current certificate of [~~for all~~] insurance [~~maintained by the certified and insured prescribed burn manager~~] that meets the requirements of §153.082 of the Natural Resources Code and §227.1 of this title (relating to Minimum Insurance Requirements), together with a complete copy of any applicable policy or policies, along with all endorsements, exclusions or limitations issued with respect to such policy or policies;

(2) the current certified and insured prescribed burn manager certificate [~~reflecting status as a certified and insured prescribed burn manager~~]; and

(3) certificates of completion for all approved CFT hours [~~activities~~] completed during the current certification period, on a form provided by the [~~CFT~~] sponsor. [~~; and~~]

~~[(4) documentation of all burn experience, including any training not applicable toward CFT credit, obtained during the current certification period.]~~

(b) A certified and insured prescribed burn manager must also maintain a prescribed burn file for each prescribed burn conducted which must include: [—]

~~[(1) For each prescribed burn, the prescribed burn file must include:]~~

~~(1) [(A)] the written burn plan that meets the requirements of §228.1 of this title (relating to Written Prescribed Burn Plan Required) [for the prescribed burn];~~

~~(2) [(B)] documentation of notice to adjacent landowners and TCEQ, if required by §153.047(4) of the Natural Resources Code and §228.2 of this title (relating to Notification Requirements Prior to Prescribed Burns);~~

(3) [(C)] documentation of notice to the county dispatch office and Texas A&M Forest Service, as required [sheriff's department and local fire authorities, if any, as recommended] by §228.2 of this title;

[(D)] documentation of notice to the Texas A&M Forest Service, prior to burning for forest management purposes, if applicable, as required by Title 30, Part 1, Chapter 111, Subchapter B, §111.219 of the Texas Administrative Code (relating to General Requirements for Allowable Outdoor Burning); and]

(4) [(E)] documentation of notice to TCEQ regarding coastal salt-marsh burning, if required by, as required by Title 30, Part 1, Chapter 111, Subchapter B, §111.211 of the Texas Administrative Code (relating to Exception for Prescribed Burn); and [-]

[(2)] For prescribed burns conducted during a burn ban, the prescribed burn file must also include:]

(5) [(A)] notices, when applicable, required by §228.4 of this title (relating to Conducting Burns During a [County] Burn Ban); and]

[(B)] a completed burn checklist for the prescribed burn conducted when a county burn ban is in effect.]

(c) The records required by subsections (a) and (b) of this section shall be made available to the Department for inspection at the location of such records upon reasonable notice by the Department.

(d) Records required by subsections (a) and (b) of this section shall be kept for the longer of five years from the date of original issuance, or for so long as any complaint, litigation, or Department investigation is pending against the certified and insured prescribed burn manager.

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

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Skyler Shafer
Assistant General Counsel
Prescribed Burning Board
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4 TAC §227.3

The repeal is proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§227.3. Continuing Fire Training Required.

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

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Prescribed Burning Board
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CHAPTER 228. PROCEDURES FOR CERTIFIED AND INSURED PRESCRIBED BURN MANAGERS

4 TAC §§228.1 - 228.4

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), proposes amendments to 4 TAC §§228.1 - 228.4.

The Board identified the need for the amendments during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §228.1 change burn plan requirements to include a burn/no burn checklist.

The proposed amendments to §228.2 require notice of prescribed burns to be provided in advance to the local county dispatch office and the Texas A&M Forest Service central dispatch office, and remove unnecessary language.

The proposed amendments to §228.3 change the requirement that a certified and insured prescribed burn manager (CIPBM) be present during a prescribed burn to instead require the CIPBM to be present during an active prescribed burn as determined by the CIPBM, and remove unnecessary language.

The proposed amendments to §228.4 remove notification requirements for conducting burns during a burn ban that no longer reflect current practice, and make editorial changes.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposed amendments will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, the Department has determined the following:

1. the proposed amendments do not create or eliminate a government program;
2. implementation of the proposed amendments does not require the creation or elimination of employee positions;
3. implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Department;
4. the proposed amendments do not require an increase or decrease in fees paid to the Department;
5. the proposed amendments do not create a new regulation;

6. the proposed amendments will not expand, limit, or repeal an existing regulation;

7. the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

8. the proposed amendments do not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year period the proposed amendments are in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year period the proposed amendments are in effect, there will be no cost to persons who are required to comply with the proposed amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments, therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposed amendments may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§228.1. *Written Prescribed Burn Plan Required.*

(a) To ensure effective planning necessary to achieve desired effects from prescribed burning, a written prescribed burn plan must be completed by the certified and insured prescribed burn manager in advance of the planned prescribed burn. The prescribed burn plan should provide reasonable assurance that the prescribed burn will be confined to the predetermined area and conducted in a manner that will accomplish the land management objectives.

(b) A written prescribed burn plan must include, at a minimum, the following information:

- (1) purpose of burn;
- (2) location and description of the area to be burned;
- (3) personnel required for managing the fire;

(4) type and amount of vegetation to be burned;

(5) area (acres) to be burned;

(6) fire prescription and firing techniques, including smoke management components;

(7) safety and contingency plans addressing escaped fires and smoke management; and

(8) a written [criteria the certified and insured prescribed burn manager will use for making] burn/no burn checklist [decisions].

~~[(e) For burns conducted during a burn ban, the Burn/Do Not Burn checklist described in subsection (b)(8) of this section must also be in writing.]~~

§228.2. *Notifications Requirements Prior to Prescribed Burns.*

(a) Prior to conducting prescribed burn activities, a certified and insured prescribed burn manager must:

(1) provide written notification to the residents, owners, occupants or operators of structures containing sensitive receptors [if they are] located within 300 feet of and in the general direction downwind from the prescribed burn;

(2) upon request, provide the landowner or landowner's agent:

(A) proof of [current] insurance coverage applicable to the prescribed burn that meets the minimum requirements set forth in §227.1 of this title (relating to Minimum Insurance Requirements); and

(B) proof of current prescribed burn manager certification; and

(3) provide notice to the local county dispatch office and the Texas A&M Forest Service central dispatch office [maintain the documentation required in paragraph (2) of this subsection on site at all times during a prescribed burn].

~~[(b) Failure to comply with any of the notice requirements in subsection (a) of this section is a violation that may result in penalties under Chapter 4 of this title (relating to Prescribed Burning Board Enforcement Program).]~~

(b) [(e)] In addition to the TCEQ notification requirements set forth at Title 30, Chapter 111, Subchapter B of the Texas Administrative Code (relating to Outdoor Burning), the certified and insured prescribed burn manager is also responsible for compliance with additional notification requirements for prescribed burns which may vary by county, including local ordinances.

~~[(d) It is strongly recommended that the certified and insured prescribed burn manager alert local officials by providing notice to the county sheriff's office and local fire authorities in proximity of the prescribed burn prior to burning.]~~

§228.3. *Personnel Required to Conduct a Prescribed Burn.*

(a) In all cases covered by these rules, a certified and insured prescribed burn manager [with insurance coverage as required by §227.1 of this title (relating to Minimum Insurance Requirements)] must be present [at all times] during an active [a] prescribed burn as determined by the certified and insured prescribed burn manager.

(b) The certified and insured prescribed burn manager is responsible for ensuring that a sufficient number of individuals are present to meet the personnel requirements set forth in the written prescribed burn plan for the protection and safety of persons and adjacent property.

~~[(e) Personnel requirements for conducting prescribed burns vary depending on the size of the burn area, fuel volatility, and man-~~

agement of adjacent areas and it is the responsibility of the certified and insured prescribed burn manager to ensure compliance with this section.]

§228.4. *Conducting Burns During a Burn Ban.*

[(a) All TCEQ, state and local requirements for outdoor burning shall apply at all times.]

(a) [(b)] A certified and insured prescribed burn manager may not conduct a burn in a county in which a current Governor's and/or Presidential Declaration of Emergency or Disaster is in effect that expressly prohibits all outdoor burning.

(b) [(e)] The certified and insured prescribed burn manager must provide written notification to [the county commissioners court and] the county judge, or the county judge's designee, prior to the prescribed burn. The written notification must include [including] the following:

- (1) the location of where the prescribed burn is to take place;
- (2) the name of the certified and insured prescribed burn manager; and
- (3) contact information for the certified and insured prescribed burn manager, including, but not limited to: address and emergency contact telephone numbers.

(c) [(d)] The certified and insured prescribed burn manager must also provide notification prior to and upon completion of the burn to:

- (1) the local county dispatch [sheriff's] office; and
- [(2) the TCEQ regional office;]
- (2) [(3)] the Texas A&M Forest Service [TFS] central dispatch office. [;]
- [(4) fire suppression entities serving the area located immediately within the jurisdiction where the burn is located; and]
- [(5) the local emergency response dispatch office.]

[(e) When burning during a burn ban, all certified and insured prescribed burn managers are required to establish and adhere to a written Burn/Do Not Burn checklist.]

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 March 17, 2023.

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Skyler Shafer

Assistant General Counsel

Prescribed Burning Board

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For further information, please call: (512) 936-9360



CHAPTER 229. CONTINUING FIRE TRAINING

4 TAC §§229.1 - 229.4

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department

of Agriculture (Department), proposes amendments to 4 TAC §§229.1 - 229.4.

The Board identified the need for the amendments during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §229.1 add wildland firefighting to the list of eligible continuing fire training activities for clarity, and change "CFT credits" to "CFT hours".

The proposed amendments to §229.2 change "CFT credit" to "CFT hours" and make editorial changes.

The proposed amendments to §229.3 remove the requirement for CFT training activities to be submitted for approval 30 days prior to the CFT activity, add a cross reference to another rule, change the topics that CFT activities can cover, and make editorial changes.

The proposed amendments to §229.4 allow a Lead Burn Instructor to approve CFT activities, require sponsors of CFT activities to provide a completed PBB Form 607 to participants, and make editorial changes.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposed amendments will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, the Department has determined the following:

1. the proposed amendments do not create or eliminate a government program;
2. implementation of the proposed amendments does not require the creation or elimination of employee positions;
3. implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Department;
4. the proposed amendments do not require an increase or decrease in fees paid to the Department;
5. the proposed amendments do not create a new regulation;
6. the proposed amendments will not expand, limit, or repeal an existing regulation;
7. the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
8. the proposed amendments do not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year

period the proposed amendments are in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year period the proposed amendments are in effect, there will be no cost to persons who are required to comply with the proposed amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments; therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposed amendments may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§229.1. *Eligible Continuing Fire Training Activities.*

(a) Eligible continuing fire training activities may include:

- (1) lectures;
- (2) panel discussions;
- (3) organized video or film with live instruction;
- (4) field demonstrations; ~~or~~
- (5) wildland firefighting as provided by §229.2 of this chapter (relating to Wildland Firefighting); and/or
- (6) ~~[(5)]~~ other activities approved by the Board.

(b) The Board shall assign no more than one CFT hour ~~[credit]~~ for each hour of actual instruction time at an approved activity. No CFT hours ~~[credit]~~ will be given for time used to promote the sponsor or other activities of the sponsor or for time used for organizational, political, or other unrelated activities.

(c) All proposed CFT training, courses, and ~~[credit]~~ hours must be pre-approved by the Board, Board Chairman, or a Lead Burn Instructor provided that all requirements for course content provided in §229.3 of this title (relating to Approval of Continuing Fire Training Activity) are met.

(d) Department staff and Board members may observe and monitor approved activities at no cost to the Department or the Board.

§229.2. *Wildland Firefighting.*

(a) Wildland firefighting is an eligible activity that may satisfy ~~[mandatory]~~ CFT requirements ~~[for certified and insured prescribed burn managers]~~. To receive CFT hours ~~[credit]~~ for wildland firefighting, the certified and insured prescribed burn manager must:

(1) be under the direction of a responsive organization that manages wildland fires which create a substantial risk of causing imminent harm to nearby property or persons;

(2) have been a requested resource assigned to a firefighting position upon check in;

(3) provide the incident commander with an Incident Personnel Performance Rating form upon assignment to be completed for documentation of the individual's performance; and

(4) submit an Incident Personnel Performance Rating form to a lead burn instructor or the Board for review.

(b) CFT hours ~~[credit]~~ for wildland firefighting activities may not exceed three hours per two-year certification period.

(c) Final approval of wildland firefighting activities by the Board is required to be eligible for CFT hours ~~[credit]~~.

§229.3. *Approval of Continuing Fire Training Activity.*

(a) For a training activity to be approved as eligible for CFT hours ~~[credit]~~, the activity must be submitted to the Board, Board Chairman, or a Lead Burn Instructor for approval.

(b) To be approved ~~[by the board, Board Chairman, or Lead Burn Instructor]~~ a sponsor must:

~~[(1)]~~ submit a completed application to the Board at least 30 days prior to the date of the CFT activity;

(1) ~~[(2)]~~ demonstrate that the CFT activity was ~~[will be]~~ conducted by a qualified instructor;

(2) ~~[(3)]~~ provide information demonstrating that the activity has significant educational or practical content to ensure competency of participants;

(3) ~~[(4)]~~ utilize a Board-approved record keeping procedure to record attendance;

(4) ~~[(5)]~~ in addition to the requirements in §226.6 of this title (relating to Renewal of Certification), demonstrate that all CFT activities relate to prescribed burning and will cover one or more of the following topics:

- (A) safety factors;
- (B) environmental consequences;
- (C) burning techniques;
- (D) equipment characteristics;
- ~~[(E)]~~ laws and regulations;
- (E) ~~[(F)]~~ advanced technology; or
- (F) ~~[(G)]~~ other [smoke management].

(c) All CFT activities must comply with applicable federal and state laws, including the Americans with Disabilities Act requirements for access to activities.

(d) The Board, Board Chairman, or a Lead Burn Instructor will respond within 10 business days of receipt of the application and approve, deny, or request additional information from the sponsor.

(e) Approval of CFT activities ~~[training courses]~~ is ~~[only]~~ valid for twelve months from the date of approval.

§229.4. *Requirements for Training Activity Sponsors.*

(a) A university, governmental agency, an association, a private ~~[independent]~~ business, or other ~~[qualified]~~ entity may be

approved by the Board, [or] Board Chair, or a Lead Burn Instructor as a sponsor for a prescribed burn training activity. To be eligible to sponsor a CFT training activity, a sponsor must submit a written proposal to the Board, Board Chair, or a Lead Burn Instructor which includes a detailed list of the subjects to be covered and the planned activities.

(b) Sponsors approved to conduct CFT activities must:

(1) upon completion of the activity, submit a roster to the Department [within 14 days of the completed activity], which contains, at a minimum:^[7]

(A) the names of the [name and current certificate number for] certified and insured prescribed burn managers participating [who successfully complete the activity]; and

(B) the certificate number of the certified and insured prescribed burn managers participating;

(2) ensure that the training hours [credits] awarded correspond proportionately to the net instruction time; and

(3) distribute a certificate of completion and a completed PBB Form 607 on the date of the activity. A certificate of completion [to eligible certified and insured prescribed burn managers which] includes, but is not limited to:

(A) the name of the sponsor;

(B) the name of the lead burn instructor;

(C) the lead burn instructor's phone number;

(D) the date and name of the approved activity;

(E) the name of the county in which the approved activity was held; and

(F) the number of CFT [credit] hours and type of hours [credit] earned.

(c) The Board may suspend or deny approval for any or all sponsored training courses if a sponsor fails to file a timely activity report, fails to provide the quality of activity required by the Board, or fails to comply with any other requirements for approval or that are a part of these rules.

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

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Skyler Shafer

Assistant General Counsel

Prescribed Burning Board

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For further information, please call: (512) 936-9360



CHAPTER 230. LEAD BURN [BURNING] INSTRUCTOR REQUIREMENTS

4 TAC §§230.1 - 230.4

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), proposes amendments to 4 TAC §§230.1 - 230.4.

The Board identified the need for the amendments during its rule review conducted pursuant to Texas Government Code §2001.039, the adoption of which can be found in the Review of Agency Rules section of this issue.

The proposed amendments to §230.1 change the requirements for lead burn instructor eligibility.

The proposed amendments to §230.2 remove unnecessary language.

The proposed amendments to §230.3 make editorial changes and add recommended curriculum topics to certified and insured prescribed burn manager training courses.

The proposed amendments to §230.4 allow the Board to designate a member to develop and approve the standardized test to be administered to all applicants seeking status as a certified and insured prescribed burn manager, remove a subsection related to the appointment of subcommittee to approve the test, and make editorial changes.

LOCAL EMPLOYMENT IMPACT STATEMENT: The Department has determined that the proposed amendments will not affect a local economy, so the Department is not required to prepare a local employment impact statement under Texas Government Code, §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT: Pursuant to Texas Government Code, §2001.0221, the Department provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, the Department has determined the following:

1. the proposed amendments do not create or eliminate a government program;

2. implementation of the proposed amendments does not require the creation or elimination of employee positions;

3. implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Department;

4. the proposed amendments do not require an increase or decrease in fees paid to the Department;

5. the proposed amendments do not create a new regulation;

6. the proposed amendments will not expand, limit, or repeal an existing regulation;

7. the proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

8. the proposed amendments do not positively or adversely affect this state's economy.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT: Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues of the state or local governments.

PUBLIC BENEFITS AND PROBABLE ECONOMIC COST: Mr. Dudley has determined that for each year of the first five-year period the proposed amendments are in effect, the public benefit will be improved readability and clarity of Board rules. Mr. Dudley has also determined that for each year of the first five-year

period the proposed amendments are in effect, there will be no cost to persons who are required to comply with the proposed amendments.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES: The Department has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments, therefore preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code, §2006.002, are not required.

Comments on the proposed amendments may be submitted by mail to Patrick Dudley, Coordinator for Agriculture Commodity Boards and Producer Relations, P.O. Box 12847, Austin, Texas 78711, or by email to Patrick.Dudley@TexasAgriculture.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Natural Resources Code §153.046, which provides that the Board shall establish standards for prescribed burning, certification, recertification, and training for certified and insured prescribed burn managers, and establish minimum education, professional and insurance requirements for certified and insured prescribed burn managers and instructors.

Natural Resources Code, Chapter 153, is affected by this proposal.

§230.1. *Lead Burn Instructor Eligibility.*

(a) A lead burn instructor must conduct an approved CFT course, but may utilize assistance from a training cadre, as the lead burn instructor deems appropriate.

(b) In order to be eligible to conduct a CFT course, a lead burn instructor must have:

(1) a minimum of fifty days' experience conducting prescribed burns [25 days of prescribed burns as the individual solely responsible for the prescribed burn];

(2) a minimum of twenty-five days' experience conducting [50 days of burns in any position on the burn, with at least 75% of those days on] prescribed burns as a burn boss or the individual solely responsible for the prescribed burn;

[(3) a minimum of 35 days of prescribed burn management;]

(3) [(4)] taken or taught a Board approved certified and insured prescribed burn manger course or be qualified as a NWCG Prescribed Burn Boss Type 2 (RXB2) or higher; and

(4) [(5)] made at least 10 presentations of technical information to groups in a formal setting.

(c) Lead burn instructors must be approved by the Board.

§230.2. *Annual Lead Burn Instructor Meeting.*

(a) In order to maintain approval as a lead burn instructor, a lead burn instructor must attend an annual meeting designated by the Board for the purpose of continuing education, to be held in conjunction with, but separately from, a regularly scheduled [semi-annual] meeting of the Board.

(b) Lead burn instructors that do not attend the annual meeting will no longer qualify to be a lead burn instructor, unless the absence is excused by a majority vote [at a duly called meeting] of the Board.

§230.3. *Certification and Curriculum.*

(a) All curriculum taught during a certified and insured prescribed burn manager training course [school] shall be approved by the Board.

(b) The minimum [Minimum] curriculum [shall be 24] hours for each certified and insured prescribed burn manager training course shall be at least 24 hours [school], with the total class length at the discretion of the lead burn instructor [responsible for] conducting the course [class].

(c) Recommended curriculum topics include:

(1) Fire History and Use; Ecological Effects;

(2) Fire Behavior;

(3) Fire Weather;

(4) Fuel Moisture/Characteristics;

(5) Topographic Influences;

(6) Fire Effects;

(7) Prescribed Burn Planning [the Burn];

(8) Equipment and Safety;

(9) Firing Technique;

(10) Smoke Management;

(11) Laws and Regulations;

[(12) Equipment and Safety;]

(12) [(13)] Evaluation of Pre-burn Area(s); [and]

(13) [(14)] Evaluation of Fuels; [-]

(14) Holding and Contingency; and

(15) Post Burn Evaluation.

[(d) Upon completion of the prescribed burn school, all applicants must take a standardized test approved by the Board.]

§230.4. *Standardized Test.*

(a) A standardized test, to be administered to all applicants seeking status as a certified and insured prescribed burn manager shall be:

(1) developed and approved by the Board, or, at [in] the discretion of the Board, a member designated [subcommittee appointed] by the Board; and

(2) reviewed annually by lead burn instructors at the annual lead burn instructor meeting to make sure all examination instructions, questions and tasks are up to date and cover all required curriculum. [; and]

[(3) approved by the Board.]

[(b) Any subcommittee appointed by the Board under this section shall include, at a minimum, one Board member as chair and one lead burn instructor from each of the five eco-regions described in §226.4(d) of this title, relating to training.]

(b) [(e)] A minimum passing grade for the standardized test will be 70%.

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 March 17, 2023.

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

SUBCHAPTER JJ. COMMISSIONER'S RULES CONCERNING INNOVATION DISTRICT

19 TAC §102.1303, §102.1313

The Texas Education Agency (TEA) proposes amendments to §102.1303 and §102.1313, concerning innovation districts. The proposed amendments would modify the requirements for renewal of a local innovation plan.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 102, Subchapter JJ, establishes provisions relating to the applicable processes and procedures for innovation districts.

The proposed amendment to §102.1303(a) would clarify that it is the district's final and most recent academic performance rating that must be at least acceptable performance in order to be eligible for designation as an innovation district.

The proposed amendment to §102.1313(a)(3) would specify that the district is not required to notify the commissioner of education of the board's intention to vote on the adoption of the renewal of a local innovation plan.

Proposed new §102.1313(a)(3)(A) would require the district to meet eligibility requirements under §102.1303 in order to be eligible to renew a local innovation plan. Proposed new §102.1313(a)(3)(B) would allow a district that chooses to renew its local innovation plan to do so in the six months subsequent to the plan's expiration date to maintain a continuous designation as a district of innovation.

Proposed new §102.1313(a)(3)(B)(i) would clarify that the term of a renewed plan may not begin prior to the date on which it is adopted by the board of trustees unless the plan is adopted as renewed within the six months following its expiration date. Proposed new §102.1313(a)(3)(B)(ii) would clarify that the term of a plan renewed during the six months subsequent to the plan's expiration date begins on the date of expiration of the prior term and may not exceed five years. Proposed new §102.1313(a)(3)(B)(iii) would clarify that any changes made to the plan during the renewal process are not effective prior to the date of adoption of the renewed plan, and proposed new §102.1313(a)(3)(B)(iv) would require the district to indicate the date of adoption next to any changes made to the plan during the renewal process in order to denote the earliest date the changes may take effect. Proposed new §102.1313(a)(3)(B)(v) would clarify that a district whose plan is not renewed during the six months subsequent to the plan's expiration date shall comply with all previously adopted exemptions upon the plan's expiration date and begin the initial adoption process over again in its entirety should the district wish to pursue designation as an innovation district in the future.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would both expand and limit an existing regulation. The proposed amendment to §102.1313 would add eligibility criteria for the purposes of renewing a local innovation plan, establish a time period after a plan's expiration but before its renewal during which a district's designation as an innovation district is valid, require districts to notate changes made to the plan during the renewal process, and clarify that districts whose plan is expired and not renewed during the established timeline shall, upon the date of the plan's expiration, comply with all exemptions that were previously formally adopted and begin the adoption process over in its entirety should they wish to be designated a district of innovation again. The proposed amendment to §102.1313 also limits an existing regulation by reducing the process requirements associated with renewal.

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

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lecholop has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify eligibility criteria for designation as an innovation district and to specify that the eligibility requirements for initial adoption of local innovation plan are applicable to renewal of a local innovation plan, as well as to clarify requirements for renewal of a local innovation plan. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins March 31, 2023, and ends May 1, 2023. 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 March 31, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code, §12A.009, which authorizes the commissioner of education to adopt rules to implement districts of innovation.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §12A.009.

§102.1303. Eligibility.

(a) A district is eligible for designation as an innovation district if the district's final and most recent performance rating under [the] Texas Education Code (TEC), §39.054, is at least acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System).

(b) A board of trustees may not vote on the final approval of the innovation plan if the district is assigned either a final or preliminary rating below acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title. In the event the preliminary rating is changed, the board of trustees may then vote to become an innovation district.

§102.1313. Amendment, Rescission, or Renewal.

(a) A district innovation plan may be amended, rescinded, or renewed if the action is approved by a majority vote of the district-level committee established under [the] Texas Education Code (TEC), §11.251, or a comparable committee if the district is exempt from that section, and a two-thirds majority vote of the board of trustees.

(1) Amendment. An amendment to an approved plan does not change the date of the term of designation as an innovation district. Exemptions that were already formally approved are not required to be reviewed.

(2) Rescission. A district must notify the Texas Education Agency within five business days of rescission and provide a date at which time it will be in compliance with all sections of the TEC, but no later than the start of the following school year.

(3) Renewal. During renewal, all sections of the plan and exemptions shall be reviewed and the district must follow all components outlined in §102.1307 of this title (relating to Adoption of Local Innovation Plan), except that a district is not required to notify the commissioner of education of the board's intention to vote on the adoption of the proposed plan under §102.1307(a)(2) of this title.

(A) A district must meet eligibility requirements under §102.1303 of this title (relating to Eligibility) in order to renew an innovation plan.

(B) In the event that a district fails to renew a plan prior to the expiration of its term, a district may renew the plan in the six

months subsequent to the plan's date of expiration in order to maintain a continuous designation as a district of innovation.

(i) The term of a renewed plan, subject to §102.1311 of this title (relating to Term), may not begin prior to the date on which the board votes to adopt the renewed plan, unless the plan is adopted during the six months subsequent to the plan's date of expiration.

(ii) If a plan is renewed during the timeline described in this subparagraph, the renewed plan will have a term not to exceed five calendar years, beginning on the date of expiration of the prior term.

(iii) If a plan is renewed during the timeline described in this subparagraph and changes are made to the plan during the renewal process, those changes will be in effect from the date of adoption of the renewed plan through the expiration date of the renewed plan, unless amended, rescinded, or terminated.

(iv) If changes are made to the plan during the renewal process, the district shall mark the changes with the date of the vote to renew the plan in order to denote the earliest date those changes may take effect.

(v) A district whose plan is not renewed during the timeline described in this subparagraph shall comply with all previously adopted exemptions immediately upon expiration of the plan and begin the adoption process over again in its entirety should the district wish to pursue designation as a district of innovation in the future.

(b) The district shall notify the commissioner [of education] of any actions taken pursuant to subsection (a) of this section along with the associated TEC exemptions and local approval dates.

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 March 20, 2023.

TRD-202301096

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 30, 2023

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



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 104. CONTINUING EDUCATION

22 TAC §104.2

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §104.2, concerning continuing education providers. The proposed amendment reflects the merger of the regional examining board CDCA-WREB-CITA. The proposed amendment includes the States Resources for Testing and Assessments (SRTA), Central Regional Dental Testing Services Inc. (CRDTS), and the American Association of Dental Boards – Accredited Continuing Education Program (AADB-ACE) as board approved continuing education providers. The proposed amendment removes Dental Quality Assurance and Dentist Secure Labs as continuing education providers.

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

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

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

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

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

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

Comments on the proposed amendment may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

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

No statutes are affected by this proposed rule.

§104.2. *Providers.*

(a) The Board hereby establishes a list of providers for continuing education courses. Unless specifically required by state law or Board rule, the Board shall not accept or approve specific continuing education courses for requirements related to the issuance or renewal of licensure, registrations, or sedation/anesthesia permits.

(b) At least once per calendar year, the Board shall review the list of providers for continuing education and any applications submitted for continuing education providers, and shall consider additions or removals of providers from the list provided in this section.

(1) The Presiding Officer may establish an ad hoc committee pursuant to 22 TAC §100.8 (relating to Ad Hoc Committees of the Board) to review the addition or removal of providers and make recommendations to the full Board for approval.

(2) The Board and any ad hoc committee shall consider classifying each provider for full continuing education provider authorization, including clinical, scientific, and sedation/anesthesia provider courses, or for a limited continuing education provider authorization restricted to courses related to risk management, recordkeeping, ethics, and non-clinical dental assistant duties continuing education. If no classification is assigned to a provider, the provider shall be considered a full continuing education provider.

(3) Any addition, removal, or classification of providers shall require a majority vote of the full Board in an open meeting. Any provider being considered for addition, removal, or classification shall be given 10 business days notice of the consideration, and shall be provided an opportunity to appear and make a presentation or submit supporting documentation at the scheduled meeting of the Board or any ad hoc committee regarding the addition, removal, or classification.

(c) Board staff shall develop and provide an application form for continuing education providers. The application form shall provide instructions for submitting provider information and supporting documentation. The Board shall provide the application form for continuing education providers and general instructions on the continuing education provider application process on its public website. Any request to become an approved continuing education provider must be submitted on the application form provided by the Board; failure to utilize the Board's application form shall be grounds to reject the application request.

(d) The Board shall consider the following criteria when reviewing providers:

- (1) the health, safety, and welfare of the residents of Texas;
- (2) access to providers for licensees and registrants in all portions of Texas;
- (3) competency of course providers, and quality of course materials;
- (4) internal and external audits, guidelines, safeguards, and standards to ensure consistent and quality education; and
- (5) demonstrable clinical, professional, and/or scientific education experience.

(e) Continuing Education courses endorsed by the following providers will meet the criteria for acceptable continuing education hours if such hours are certified by the following providers:

- (1) American Dental Association--Continuing Education Recognition Program (CERP);
- (2) American Dental Association, its component, and its constituent organizations;
- (3) Academy of General Dentistry, and its constituents and approved sponsors;
- (4) Dental/dental hygiene schools and programs accredited by the Commission on Dental Accreditation of the American Dental Association;
- (5) American Dental Association approved specialty organizations;
- (6) American Dental Hygienists' Association, its component, and its constituent organizations;

(7) American Medical Association approved specialty organizations;

(8) American Medical Association approved hospital courses;

(9) National Dental Association, its constituent, and its component societies;

(10) National Dental Hygienists' Association, its constituent, and its component societies;

(11) Medical schools and programs accredited by the Standards of the Medical Specialties, the American Medical Association, the Advisory Board for Osteopathic Specialists and Boards of Certification, or the American Osteopathic Association;

(12) The Commission on Dental Competency Assessments-The Western Regional Examining Board-The Council of Interstate Testing Agencies (CDCA-WREB-CITA), States Resources for Testing and Assessments (SRTA), and Central Regional Dental Testing Services Inc. (CRDTS);

~~{(12) Western Regional Examining Board;}~~

(13) American Academy of Dental Hygiene;

(14) American Dental Education Association;

(15) American Heart Association;

(16) Texas Dental Hygiene Educators' Association;

(17) Dental Laboratory Association of Texas;

(18) Dental Assisting National Board;

(19) American Dental Assistants Association and its constituent organizations;

(20) The Compliance Division, LLC;

(21) Dental Compliance Specialists, LLC; and

(22) Other entities approved by the Board as shown in the attached graphic for this section.

Figure: 22 TAC §104.2(c)(22)

~~[Figure: 22 TAC §104.2(c)(22)]~~

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 March 15, 2023.

TRD-202301081

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: April 30, 2023

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



PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER B. LICENSING REQUIREMENTS

22 TAC §463.8

The Texas Behavioral Health Executive Council proposes amendments to §463.8, relating to Licensed Psychological Associate.

Overview and Explanation of the Proposed Rule. The proposed amendments correct typographical errors in subsections (a)(3), (b)(3), and (c)(3). The proposed amendment to subsection (a)(2) will allow for the supervised experience from an internship, practicum, or the like to count towards licensure if it is obtained under an individual licensed as an LSSP, instead of only under the supervision of a psychologist. Subsection (c)(5) has been amended to allow a provisionally licensed psychologist to count supervision hours obtained towards the independent practice requirements as an LPA. Subsection (d) has been deleted to correspond with changes made to §463.11, which deletes the gap requirements for when supervised experience was obtained and when an application was submitted. Subsection (f) extends a grandfathering provision for degrees in psychology that began before August 31, 2019. And subsection (g) creates a way for applicants with deficiencies to petition to remediate certain areas of deficiency.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the

Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Ex-

ecutive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§463.8. *Licensed Psychological Associate.*

(a) Licensure Requirements. An applicant for licensure as a psychological associate must:

(1) hold a graduate degree in psychology from a regionally accredited institution of higher education;

(2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist or under the supervision of an individual that holds a license as a specialist in school psychology;

(3) pass all examinations required by the Council and meet each of the criteria listed in §501.2525(a)(3) - (9) [§501.2525(a)(2) - (9)] of the Occupations Code; and

(4) demonstrate graduate level coursework in each of the following areas:

(A) Psychological Foundations:

(i) the biological bases of behavior;

(ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;

(iii) the social, cultural, and systemic bases of behavior;

(iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;

(B) Research and Statistics:

(i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;

(ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;

(C) Applied Psychology:

(i) the history, theory, and application of psychological principles;

(ii) the application of psychological theories to individuals, families, and groups;

(D) Assessment:

(i) intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;

(ii) socio-economic, including behavioral, adaptive, and cultural assessment;

(E) Interventions:

(i) the application of therapeutic techniques;

(ii) behavior management;

(iii) consultation; and

(F) Scientific and Professional, Legal, and Ethical Issues.

(b) Degree Requirements.

(1) For purposes of this rule:

(A) a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"

(B) a specialist degree shall be treated as a graduate degree; and

(C) one semester credit hour equals one and one-half quarter credit hours.

(2) A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.

(3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(2) and (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the Council with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

(1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.

(2) Notwithstanding paragraph (1) of this subsection and subject to the limitations set out in paragraph (3) of this subsection, a licensed psychological associate may practice independently if:

(A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;

(B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and

(C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.

(3) A licensed psychological associate meeting the requirements of paragraph (2) of this subsection shall be approved for independent practice, but remains subject to all Council rules, including [Council] §465.9 of this title. [(relating to Competency).]

(4) Applicants shall not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.

(5) Applicants licensed as specialists in school psychology or as a provisionally licensed psychologist may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.

[(d) Notwithstanding subsection (c)(3) of this section, an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to

supervised experience found in Council rule §463-11 shall govern any request for a waiver under this rule.]

(d) [(e)] The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."

(e) [(f)] A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Council describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Council's website.

(f) [(g)] Continuation of Prior Law.

(1) Notwithstanding subsection (b)(2) of this section, a person who began a graduate program before August 31, 2019, leading to a degree in psychology, that otherwise meets the requirements of subsection (a)(1) of this section, shall be considered to have met the requirements of subsection (b)(2) of this section if the individual has completed 42 semester credit hours.

(2) Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours to meet the requirement of subsection (f)(1) of this section.

[(1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.]

[(2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, shall be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.]

(g) Remedy for Incomplete Licensure Requirements.

(1) An applicant who has completed a graduate degree in psychology, from a regionally accredited institution of higher education, that consists of at least sixty (60) semester credit hours, is currently licensed as an LSSP, or meets the requirements of subsection (f) of this section, and who does not meet all of the qualifications for licensure set out in subsection (a)(2) and (4) of this section may petition for permission to remediate an area of deficiency. An applicant may not, petition for the waiver or modification of the requisite degree or passage of the requisite examinations.

(2) The Council may allow an applicant to remediate a deficiency identified in paragraph (1) of this subsection if the applicant can demonstrate:

(A) the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and

(B) the remediation would not adversely affect the public welfare.

(3) The Council may approve or deny a petition under this subsection, and in the case of approval, may condition the approval on reasonable terms and conditions designed to ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice as a licensed psychological associate.

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 March 20, 2023.

TRD-202301105

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §681.35

The Texas Behavioral Health Executive Council proposes new §681.35, relating to Informed Consent.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. This proposed new rule transfers the existing requirements for informed consent from current §681.41 to this new rule, and it adds new language in subsection (d). Subsection (d) is intended to create a standard by which informed consent can be provided by licensees to clients while licensees are employed by agencies or institutions, where obtaining signed documentation may not be possible or easily accomplished. The proposed amendment requires the same level of notice and public protection that is currently required, while also creating a regulation that is not overly burdensome or impossible to comply with for licensees.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the

public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.35. Informed Consent.

(a) Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:

- (1) fees and arrangements for payment;
- (2) counseling purposes, goals, and techniques;
- (3) any restrictions placed on the license by the Council;
- (4) the limits on confidentiality;
- (5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client;
- (6) supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;
- (7) the name, address and telephone number of the Council for the purpose of reporting violations of the Act or this chapter; and

(8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.

(b) A licensee must inform the client in writing of any changes to the items in subsection (a) of this section, prior to initiating the change.

(c) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee acting within the scope of employment with an agency or institution is not required to obtain a signed informed consent, but must document, in writing, that the licensee informed the client of the information required by subsection (a) of this section and that the client consented.

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 March 20, 2023.

TRD-202301106

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



22 TAC §681.36

The Texas Behavioral Health Executive Council proposes new §681.36, relating to Client Records.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. This proposed new rule transfers the existing requirements for records from current §681.41 to this new rule.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there

will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws

of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.36. Client Records.

(a) For each client, a licensee must keep accurate records of:

- (1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy of the appropriate court order;
- (2) intake assessment;
- (3) dates of counseling treatment intervention;
- (4) principal treatment methods;
- (5) progress notes;
- (6) treatment plan; and
- (7) billing information.

(b) In the absence of applicable state and federal laws, rules or regulations, records held by a licensee must be kept for a minimum of seven (7) years from the date of termination of services with the client, or five (5) years after the client reaches the age of majority, whichever is greater.

(c) Records created by a licensee during the scope of employment with an agency or institution must be maintained by the licensee unless the records are maintained by the employer.

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 March 20, 2023.

TRD-202301107

Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



22 TAC §681.37

The Texas Behavioral Health Executive Council proposes new §681.37, relating to Billing and Financial Arrangements.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. This proposed new rule transfers the existing requirements for billing and financial arrangements from current §681.41 to this new rule.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment

of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this in-

stance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.37. Billing and Financial Arrangements.

(a) Billing Requirements.

(1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.

(3) Pursuant to Texas Health and Safety Code, Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4) A licensee may not knowingly overcharge a client.

(5) With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary.

(b) In accordance with §503.401(a)(4) of the Act, a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.

(c) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, will not be considered as a violation of state law relating to illegal remuneration.

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 March 20, 2023.

TRD-202301108

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



22 TAC §681.38

The Texas Behavioral Health Executive Council proposes new §681.38, relating to Conflicts, Boundaries, Dual Relationships, and Termination of Relationships.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE.

This proposed new rule transfers the existing requirements regarding conflicts, boundaries, dual relationships, and termination of relationships with clients from current §681.41 to this new rule.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or

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

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.38. Conflicts, Boundaries, Dual Relationships, and Termination of Relationships.

(a) A licensee must not engage in activities for the licensee's personal gain at the expense of a client.

(b) A licensee may promote the licensee's personal or business activities to a client if such activities, services or products are to facilitate the counseling process or help achieve the client's counseling goals. Prior to engaging in any such activities, services or product sales with the client, the licensee must first inform the client of the licensee's personal and/or business interest therein. A licensee must not exert undue influence in promoting such activities, services or products.

(c) A licensee must set and maintain professional boundaries.

(d) Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.

(1) A non-therapeutic relationship is any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy.

(2) A licensee may not engage in a non-therapeutic relationship with a client if the relationship begins less than two (2) years after the end of the counseling relationship.

(3) A licensee may not engage in a romantic relationship or sexual contact with a client within five (5) years after the end of the counseling relationship.

(4) For purposes of paragraphs (2) and (3) of this subsection, the licensee must be able to demonstrate the relationship was consensual, not the result of exploitation by or on the part of the licensee, and that the non-therapeutic relationship is not detrimental to the client in light of all relevant factors, including, but not limited to, the factors set forth in §681.42(b)(4)(A) - (G) of this title (relating to Sexual Misconduct).

(5) The licensee must not provide counseling services to previous or current:

- (A) family members;
- (B) personal friends;
- (C) educational associates; or
- (D) business associates.

(6) The licensee must not give or accept a gift from a client or a relative of a client valued at more than \$50, borrow or lend money or items of value to clients or relatives of clients, or accept payment in the form of goods or services rendered by a client or relative of a client.

(7) The licensee must not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(e) The licensee must not knowingly offer or provide counseling to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee must request release from the client to inform the other professional and strive to establish positive and collaborative professional relationships.

(f) A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.

(g) Upon termination of a relationship if professional counseling is still necessary, the licensee must take reasonable steps to facilitate the transfer to appropriate care.

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 March 20, 2023.

TRD-202301109

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



22 TAC §681.41

The Texas Behavioral Health Executive Council proposes amendments to §681.41, relating to General Ethical Requirements.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. Subsections (e), (f), (h), (i), (j), (k), (l), (m), (n), (q), (r), (s), (t), (v), (w), and (x) are proposed to be deleted from this rule and adopted in separate rules to organize the rules of practice in a more accessible and intuitive manner. Additionally, subsection (u) is proposed to be deleted as duplicative, because the same requirement already exists in §681.45.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to pre-

pare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015

of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.41. *General Ethical Requirements.*

(a) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including, but not limited to:

- (1) the effectiveness of services;
- (2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or
- (3) the practice or field of counseling.

(b) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health organization or agency, including, but not limited to, the effectiveness of services, qualifications, or products.

(c) A licensee must discourage a client from holding exaggerated or false ideas about the licensee's professional services, including, but not limited to, the effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee must take immediate and reasonable action to correct the ideas held.

(d) A licensee must make reasonable efforts to discourage others whom the licensee does not control from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee must take reasonable action to correct the statement.

[(e) Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:]

- [(1) fees and arrangements for payment;]
- [(2) counseling purposes, goals, and techniques;]

[(3) any restrictions placed on the license by the Council;]

[(4) the limits on confidentiality;]

[(5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client;]

[(6) supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;]

[(7) the name, address and telephone number of the Council for the purpose of reporting violations of the Act or this chapter; and]

[(8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.]

[(f) A licensee must inform the client in writing of any changes to the items in subsection (e) of this section, prior to initiating the change.]

(e) [(g)] Technological means of communication may be used to facilitate the therapeutic counseling process.

[(h) In accordance with §503.401(a)(4) of the Act, a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.]

[(i) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, will not be considered as a violation of state law relating to illegal remuneration.]

[(j) A licensee must not engage in activities for the licensee's personal gain at the expense of a client.]

[(k) A licensee may promote the licensee's personal or business activities to a client if such activities, services or products are to facilitate the counseling process or help achieve the client's counseling goals. Prior to engaging in any such activities, services or product sales with the client, the licensee must first inform the client of the licensee's personal and/or business interest therein. A licensee must not exert undue influence in promoting such activities, services or products.]

[(l) A licensee must set and maintain professional boundaries.]

[(m) Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.]

[(1) A non-therapeutic relationship is any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy.]

[(2) A licensee may not engage in a non-therapeutic relationship with a client if the relationship begins less than two (2) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.]

[(3) A licensee may not engage in sexual contact with a client if the contact begins less than five (5) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.]

[(4) For purposes of paragraphs (2) and (3) of this subsection, the licensee must be able to demonstrate there has been no exploitation and the non-therapeutic relationship is not detrimental to the client in light of all relevant factors, including, but not limited to, the factors set forth in §681.42(b)(4)(A) - (G) of this title (relating to Sexual Misconduct).]

[(5) The licensee must not provide counseling services to previous or current:]

- [(A) family members;]
- [(B) personal friends;]
- [(C) educational associates; or]
- [(D) business associates.]

[(6) The licensee must not give or accept a gift from a client or a relative of a client valued at more than \$50, borrow or lend money or items of value to clients or relatives of clients, or accept payment in the form of goods or services rendered by a client or relative of a client.]

[(7) The licensee must not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.]

[(n) The licensee must not knowingly offer or provide counseling to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee must request release from the client to inform the other professional and strive to establish positive and collaborative professional relationships.]

[(f) [(e)] A licensee may take reasonable action to inform medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others, or there is a probability of immediate mental or emotional injury to the client.

[(g) [(p)] The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:

- (1) within a group; or
- (2) individual counseling.

[(q) For each client, a licensee must keep accurate records of:]

[(1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy of the appropriate court order]

- [(2) intake assessment;]
- [(3) dates of counseling treatment intervention;]
- [(4) principal treatment methods;]
- [(5) progress notes;]
- [(6) treatment plan; and]
- [(7) billing information.]

[(r) In the absence of applicable state and federal laws, rules or regulations, records held by a licensee must be kept for a minimum of seven (7) years from the date of termination of services with the client, or five (5) years after the client reaches the age of majority, whichever is greater.]

[(s) Records created by licensees during the scope of their employment by agencies or institutions that maintain client records are not required to comply with (q) and (r) of this section.]

[(t) Billing Requirements.]

[(1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.]

[(2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.]

[(3) Pursuant to Texas Health and Safety Code, Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.]

[(4) A licensee may not knowingly overcharge a client.]

[(5) With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary.]

[(u) A licensee must comply with all requirements of Texas Health and Safety Code Chapters 611 and 181 concerning the release of mental health records and confidential information.]

[(v) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.]

[(w) A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.]

[(x) Upon termination of a relationship if professional counseling is still necessary, the licensee must take reasonable steps to facilitate the transfer to appropriate care.]

[(h) [(y)] A licensee must not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses in the evaluation the licensee has not personally interviewed the individual.

[(i) [(z)] A licensee must not knowingly overtreat a client.

[(j) [(aa)] A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.

[(k) [(bb)] A licensee must report to the Council knowledge of any unlicensed practice of counseling.

[(l) [(ee)] A licensee or an applicant must not participate in the falsification of any materials submitted to the Council.

(m) [(dd)] A licensee must not provide services while impaired by a physical, mental, or medical condition or by medication, drugs or alcohol.

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

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

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For further information, please call: (512) 305-7706



22 TAC §681.52

The Texas Behavioral Health Executive Council proposes amendments to §681.52, relating to Parenting Facilitation.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. Rule 681.41 has been proposed to be amended so a corresponding amendment to subsection (y) of this rule has been proposed.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council

is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.52. Parenting Facilitation.

(a) In accordance with Texas House Bill 1012, 81st Legislature, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.

(b) In accordance with Texas Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described by Texas Family Code, §153.6061, in a suit; and

(2) who:

(A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through procedures that are not confidential; and

(B) is not appointed under another statute or a rule of civil procedure.

(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators must comply with all applicable requirements of the Texas Family Code, Chapter 153, and this section. Licensees must also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Texas Family Code, Chapter 153, or this section.

(d) In accordance with Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator must not provide other professional counseling services to any person while simultaneously providing parent facilitation services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

(e) In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor associate must not serve as a parenting facilitator.

(f) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in Texas Family Code, Chapter 153.

(g) A licensee serving as a parent facilitator must assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.

(h) A licensee serving as a parenting facilitator functions in four primary areas in providing services.

(1) Conflict management function--The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.

(2) Assessment function--A parenting facilitator must review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.

(3) Educational function--A parenting facilitator must educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.

(4) Coordination/case management function--A parenting facilitator must work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.

(i) A licensee, serving as a parenting facilitator, must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.

(j) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used so as to avoid offering the opportunity for further coercion.

(k) A licensee serving as a parent facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.

(l) A licensee serving as a parenting facilitator must not provide legal advice.

(m) A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.

(n) A licensee serving as a parenting facilitator must not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.

(o) A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(p) A licensee serving as a parenting facilitator:

(1) must terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;

(2) must not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;

(3) must not coerce or improperly influence any party to make a decision;

(4) must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and

(5) must not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.

(q) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration must be given or received by a licensee for parenting facilitation or other professional referrals.

(r) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

(s) A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.

(t) A licensee serving as a parenting facilitator:

(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;

(2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and

(3) may communicate with the parties through face-to-face meetings or electronic communication.

(u) A licensee serving as a parenting facilitator must, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:

(1) the limitations on confidentiality in the parenting facilitation process; and

(2) the basis of fees and costs and the method of payment including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(v) Information obtained during the parenting facilitation process must not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the Council.

(w) In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.

(x) A licensee serving as a parenting facilitator:

(1) must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;

(2) must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

(3) must maintain records necessary to support charges for services and expenses and must make a detailed accounting of those charges to the parties and their counsel if requested to do so;

(4) must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and

(5) must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.

(y) Records of a licensee serving as a parenting facilitator, are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records must be maintained for the period of time described in §681.36 [§681.41(†)] of this title (relating to Client Records), [General Ethical Requirements], or as otherwise directed by the court.

(z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the Council.

(aa) Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator or as directed by the written agreement of the parties and/or formal order of the court.

(bb) All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(cc) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(dd) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

(ee) The minimum training for a licensee serving as a parent facilitator that is required by Texas Family Code, §153.6101(b)(2) is:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and

(4) 16 hours of training in the laws and Council rules governing parent coordination and facilitation, and the multiple styles and procedures used in different models of service.

(ff) A licensee serving as a parent facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.

(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (ee) of this section, is based on functional skills taught during the training rather than the use of specific titles or names.

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

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

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For further information, please call: (512) 305-7706



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §681.205

The Texas Behavioral Health Executive Council proposes amendments to §681.205, relating to Schedule of Sanctions.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. Amendments to §681.41 have been proposed, so corresponding amendments to this rule are also being proposed.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council

is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.205. *Schedule of Sanctions. The following standard sanctions shall apply to violations of the Act and these rules.*

Figure: 22 TAC §681.205

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

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

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For further information, please call: (512) 305-7706



PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER A. LICENSE APPLICATIONS

22 TAC §882.10

The Texas Behavioral Health Executive Council proposes the repeal of §882.10, relating to Applicants with Pending Complaints.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed repeal of this rule is necessary because it is proposed to be replaced with a new rule. The new rule will allow for the abeyance of an application up to 180 days when there is a pending complaint against the applicant that involves sexual misconduct or imminent physical harm to the public. All other applicants with complaints will have their application processed as normal, the complaint will not impact the licensure application. The pending complaint will still be investigated and processed according to the normal route as well.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the repealed rule. Additionally, Mr. Spinks has de-

termined that enforcing or administering the rule repeal does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule repeal is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule repeal will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule repeal is in effect, the public benefit anticipated as a result of enforcing the rule repeal will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule repeal is in effect, there will be no additional economic costs to persons required to comply with this rule repeal.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule repeal is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule repeal will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule repeal is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule repeal is in effect, the Executive Council estimates that the proposed rule repeal will have no effect on government growth. The proposed rule repeal does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule repeal. Thus, the Executive Council is not

required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule repeal may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule repeal is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§882.10. Applicants with Pending Complaints.

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 March 20, 2023.

TRD-202301101

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



22 TAC §882.10

The Texas Behavioral Health Executive Council proposes new §882.10, relating to Applicants with Pending Complaints.

Overview and Explanation of the Proposed Rule. The proposed new rule changes the way Council staff will process applications when the applicant has a pending complaint. If the applicant has a pending complaint that involves sexual misconduct or imminent physical harm to the public then the application may be held in abeyance for up to 180 days while a determination on the complaint is made. All other applicants with complaints will have their application processed as normal, the complaint will not impact the licensure application. The pending complaint will still be investigated and processed according to the normal route as well.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the

proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§882.10. Applicants with Pending Complaints.

(a) The Council may hold an application in abeyance up to 180 days if there is a high priority complaint pending against the applicant. Alternatively, the Council may issue a license subject to an eligibility order in lieu of abatement.

(b) An applicant will be permitted to take all required exams while an application is abated.

(c) Notwithstanding any other rule, the Council may enter findings of fact and conclusions of law and take disciplinary action against a license for acts or omissions that occurred prior to the issuance of the license.

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

Filed with the Office of the Secretary of State on March 20, 2023.

TRD-202301102

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: April 30, 2023

For further information, please call: (512) 305-7706



CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

22 TAC §884.10

The Texas Behavioral Health Executive Council proposes amendments to §884.10, relating to Investigation of Complaints.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed amendments reduce the priority rating system for complaints from four levels to two. The high priority shall be for all complaints involving sexual misconduct or imminent physical harm and all other complaints shall be a normal priority.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the

increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://bhec.texas.gov/proposed-rule-changes-and-the-rule-making-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 30, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§884.10. *Investigation of Complaints.*

(a) The following priority rating system shall serve to distinguish between categories of complaints. The priority rating system is as follows:

(1) High Priority - cases involving sexual misconduct or a probability of imminent physical harm to the public or a member of the public; and

{(2) eases involving sexual misconduct;}

{(3) eases involving applicants for licensure; and}

(2) [(4)] Regular Priority - cases involving all other violations of state or federal law.

(b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Council not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.

(c) The Council may accept, but is not obligated to investigate, a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.

(d) A complainant may explain the allegations made in the complaint by attaching or including with the complaint any evidence the complainant believes is relevant to a determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.

(e) A review will be conducted upon receipt of a complaint to determine if the Council has jurisdiction over the complaint, and if so, whether the complaint states an allegation which, if true, would constitute a violation of the Council's rules or other law within the jurisdiction of the Council.

(f) Complaints that do not state a violation of a law within the jurisdiction of the Council shall be dismissed. If the complaint alleges a violation of a law within the jurisdiction of another agency, the complaint will be referred to that agency as required or allowed by law.

(g) Complaints that state a violation of a law within the jurisdiction of the Council shall be investigated by an investigator assigned by the Enforcement Division.

(h) Licensees will receive written notice of any alleged complaint(s), including specific information regarding any violation(s) encountered. Notice to a licensee is effective and service is complete when sent by registered or certified mail to the licensee's address of record at the time of the mailing.

(i) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation has occurred.

(j) The Enforcement Division Manager (or the manager's designee) and legal counsel shall review the investigation report to determine if there is probable cause that a violation occurred.

(k) A complaint for which the staff determines probable cause exists shall be referred for an informal conference by agency staff or a member board's Disciplinary Review Panel. Agency staff shall send the respondent notice of the date and time of the informal conference.

(l) A complaint for which staff or a Disciplinary Review Panel determines that probable cause does not exist shall be referred for dismissal.

(m) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.

(n) If a complainant or respondent are represented by an attorney, any notice or service required by law shall be made upon the attorney at the attorney's last known address.

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 March 20, 2023.
TRD-202301103

Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
Earliest possible date of adoption: April 30, 2023
For further information, please call: (512) 305-7706



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 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 104. CONTINUING EDUCATION

22 TAC §104.2

The State Board of Dental Examiners withdraws the proposed amendment to §104.2, which appeared in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8454).

Filed with the Office of the Secretary of State on March 15, 2023.

TRD-202301082

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: March 15, 2023

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



PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER B. LICENSING REQUIREMENTS

22 TAC §463.8

The Texas State Board of Examiners of Psychologists withdraws the proposed amendment to §463.8, which appeared in the September 30, 2022, issue of the *Texas Register* (47 TexReg 6382).

Filed with the Office of the Secretary of State on March 20, 2023.

TRD-202301104

Darrel D. Spinks

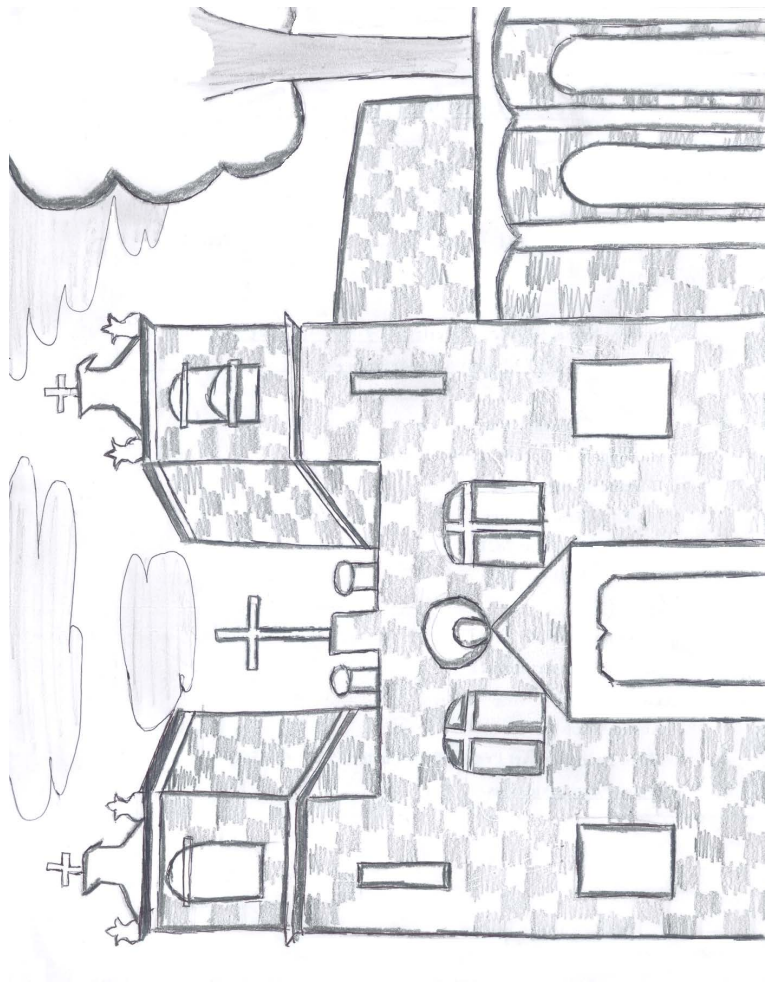
Executive Director

Texas State Board of Examiners of Psychologists

Effective date: March 20, 2023

For further information, please call: (512) 305-7706





ADOPTED RULES

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

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 101. TOBACCO

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendments to §101.1, concerning Purpose; §101.2, concerning Definitions; §101.3, concerning General Requirements for Annual Reports by Manufacturers; §101.4, concerning Ingredient Reporting Requirements; §101.7, concerning Security of Report Information; and §101.10, concerning Public Information; and the repeal of §101.5, concerning Cigarette Nicotine Yield Rating Reporting Requirements; and §101.6, concerning Tobacco Products--Excluding Cigars, Nicotine Reporting Requirements.

The amendments to §§101.1 - 101.4, 101.7, and 101.10; and the repeal of §101.5 and §101.6 are adopted without changes to the proposed text as published in the December 9, 2022, issue of the *Texas Register* (47 TexReg 8088). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The repeal of §101.5 and §101.6 is necessary to implement Senate Bill (S.B.) 970, 87th Legislature, Regular Session, 2021, which repealed Texas Health and Safety Code §161.353. S.B. 970 removed the requirement for tobacco manufacturers to report nicotine yield ratings in cigarettes and tobacco products to DSHS. The amendments to §§101.2, 101.3, and 101.7 remove definitions and requirements no longer needed after the repeal of Texas Health and Safety Code §161.353.

DSHS is also amending §§101.1 - 101.4, 101.7, and 101.10 to update the process requiring tobacco manufacturers to submit tobacco ingredient lists to DSHS on an annual basis. Needed updates were identified through a rule review process conducted in accordance with Texas Government Code §2001.039. The amendments modernize and simplify the process for receiving and storing annual reports.

COMMENTS

The 31-day comment period ended January 9, 2023.

During this period, DSHS did not receive any comments regarding the proposed rules.

25 TAC §§101.1 - 101.4, 101.7, 101.10

STATUTORY AUTHORITY

The amendments result from the repeal of Texas Health and Safety Code §161.352, which required tobacco manufacturers to submit nicotine yield ratings in cigarettes and tobacco products to DSHS. The amendments and repeals are also authorized 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, and efficient enforcement of Texas Health and Safety Code §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

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 March 13, 2023.

TRD-202301056

Cynthia Hernandez

General Counsel

Department of State Health Services

Effective date: April 2, 2023

Proposal publication date: December 9, 2022

For further information, please call: (512) 776-2031



25 TAC §101.5, §101.6

STATUTORY AUTHORITY

The repeals result from the repeal of Texas Health and Safety Code §161.352, which required tobacco manufacturers to submit nicotine yield ratings in cigarettes and tobacco products to DSHS. The amendments and repeals are also authorized 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, and efficient enforcement of Texas Health and Safety Code §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

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 March 13, 2023.

TRD-202301057

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 34. STATE FIRE MARSHAL

The commissioner of insurance adopts amendments to 28 TAC §§34.303, 34.507, 34.607, and 34.707, concerning updates to various National Fire Protection Association (NFPA) code standards. The amendments are adopted without changes to the proposed text published in the December 23, 2022, issue of the *Texas Register* (47 TexReg 8481). The sections will not be republished.

REASONED JUSTIFICATION. The amended sections are necessary to update various NFPA code standards that are adopted by reference in the noted rules. Specifically, the amendments to §34.303 update the NFPA Fire Code and Life Safety Code; the amendments to §34.507 update 14 NFPA codes that establish standards related to fire extinguisher systems; the amendments to §34.607 update 17 NFPA codes that establish standards related to fire alarm and fire detection systems; and the amendments to §34.707 update 16 NFPA codes that establish standards related to fire protection sprinkler systems.

Under Government Code §417.008(e), the commissioner may adopt by rule any appropriate standard developed by a nationally recognized standards-making association under which the state fire marshal may enforce state laws related to firefighting, fire prevention, and inspection of dangerous conditions. The NFPA is a nationally recognized standards-making association, and the State Fire Marshal's Office (SFMO) has relied on NFPA codes since at least the 1990s. See, e.g., *Texas Register* (21 TexReg 1286) (adopting the 1994 edition of the NFPA Life Safety Code), adopted in 1996. Insurance Code Chapters 6001, 6002, and 6003 also specifically authorize the commissioner to adopt NFPA code standards applicable to fire extinguisher systems, fire alarm and fire detection systems, and fire protection sprinkler systems.

NFPA codes are generally updated every three or five years, depending on the revision cycle of the particular code. However, the Texas Department of Insurance (TDI) has not updated NFPA standards since 2017. The adopted amendments thus ensure that SFMO is using the most up-to-date NFPA codes when performing its duties under the law. NFPA codes can be accessed at www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/Free-access.

TDI is delaying the effective date of the adopted sections until September 1, 2023. This delay gives stakeholders additional time to prepare for the changes in the adopted code standards.

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

Section 34.303. Adopted Standards. Amendments to §34.303 adopt the 2021 NFPA Fire Code (NFPA 1) and Life Safety Code

101 (NFPA 101) and make other changes to the rule text to adhere to current agency style. Specifically, the amendments:

- revise references to the two applicable NFPA codes;
- revise capitalization of words and terms for consistency with TDI rule drafting style;
- narrow the scope of the exception of NFPA Chapter 60. Chapter 60 provides important safety standards applicable across laboratories. NFPA 45 (Standard on Fire Protection for Laboratories Using Chemicals) will generally apply to university laboratories;
- substitute the NFPA's physical address for its web address where the public can access the NFPA standards;
- modify language regarding the adoption of the NFPA standards to be consistent with the other adopted standards sections of this adoption. In particular, the associated annexes to the NFPA standards are included in the adoption to assist with clarifying the code language; and
- make changes to code, including requiring mandatory sprinklers in new-build daycares with occupancies of more than 12 clients, and carbon monoxide detection for existing hotels and dormitories.

The adoption of NFPA 1 and NFPA 101 provides SFMO inspectors with more comprehensive standards than were previously included in §34.303. For example, NFPA 1 is a national consensus fire code that references many other NFPA standards. NFPA 1 allows a fire inspector to inspect a premise and the sufficiency of its fire sprinklers, egress of occupants, compliance with electrical standards, need for fire extinguishers, and storage of products that cause increased fire hazards. NFPA 1 requirements also minimize risk exposure for people at the premises and in the surrounding community. NFPA 1 is similar to the International Fire Code that most municipalities in Texas use. Any specific statutory requirements or exclusions for a specific occupancy or for a particular regulated industry preempt standards adopted by these rules.

Section 34.507. Adopted Standards. Amendments to §34.507 adopt current NFPA standards and make text changes to adhere to current agency style. Specifically, the amendments revise references to the following standards:

- NFPA 10-2018, Standard for Portable Fire Extinguishers;
- NFPA 11-2016, Standard for Low-, Medium-, and High-Expansion Foam;
- NFPA 12-2018, Standard on Carbon Dioxide Extinguishing Systems;
- NFPA 12A-2018, Standard on Halon 1301 Fire Extinguishing Systems;
- NFPA 15-2017, Standard for Water Spray Fixed Systems for Fire Protection;
- NFPA 16-2019; Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems;
- NFPA 17-2021, Standard for Dry Chemical Extinguishing Systems;
- NFPA 17A-2021, Standard for Wet Chemical Extinguishing Systems;
- NFPA 18-2021, Standard on Wetting Agents;

- NFPA 25-2020, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems;
- NFPA 33-2018, Standard for Spray Application Using Flammable or Combustible Materials;
- NFPA 96-2021, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations;
- NFPA 2001-2018, Standard on Clean Agent Fire Extinguisher Systems; and
- NFPA 2010-2020, Standard for Fixed Aerosol Fire-Extinguishing Systems.

For consistency with agency style, some words and terms are revised to be capitalized. The amendments to this section also substitute the NFPA's physical address for its web address where the public can access the NFPA standards.

Section 34.607. Adopted Standards. Amendments to §34.607 adopt current NFPA codes and standards and make text changes to adhere to current agency style. Specifically, the amendments revise references to the following codes and standards:

- NFPA 11-2016, Standard for Low-, Medium-, High-Expansion Foam;
- NFPA 12-2018, Standard on Carbon Dioxide Extinguishing Systems;
- NFPA 12A-2018, Standard on Halon 1301 Fire Extinguishing Systems;
- NFPA 13-2019, Standard for the Installation of Sprinkler Systems;
- NFPA 13D-2019, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes;
- NFPA 13R-2019, Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies;
- NFPA 15-2017, Standard for Water Spray Fixed Systems for Fire Protection;
- NFPA 16-2019, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems;
- NFPA 17-2021, Standard for Dry Chemical Extinguishing Systems;
- NFPA 17A-2021, Standard for Wet Chemical Extinguishing Systems;
- NFPA 25-2020, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems;
- NFPA 70-2020, National Electrical Code;
- NFPA 72-2019, National Fire Alarm and Signaling Code;
- NFPA 90A-2021, Standard for the Installation of Air Conditioning and Ventilating Systems;
- NFPA 101-2021, Life Safety Code;
- UL 827 December 3, 2021, Standard for Central Station Alarm Services; and
- NFPA 2001-2018, Standard on Clean Agent Fire Extinguisher Systems.

For consistency with agency style, some words and terms are revised to be capitalized. The amendments to this section also substitute the NFPA's physical address for its web address where the public can access the NFPA standards, and they correct the name of NFPA 101 by removing "(r)" from the reference to the standard in the rule text.

Section 34.707. Adopted Standards. Amendments to §34.707 adopt current NFPA codes and standards and make text changes to adhere to current agency style. Specifically, the amendments revise references to the following codes and standards:

- NFPA 13-2019, Standard for the Installation of Sprinkler Systems;
- NFPA 25-2020, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems;
- NFPA 13D-2019, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes;
- NFPA 13R-2019, Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies;
- NFPA 14-2019, Standard for the Installation of Standpipe and Hose Systems;
- NFPA 15-2017, Standard for Water Spray Fixed Systems for Fire Protection;
- NFPA 16-2019, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems;
- NFPA 20-2019, Standard for the Installation of Stationary Pumps for Fire Protection;
- NFPA 22-2018, Standard for Water Tanks for Private Fire Protection;
- NFPA 24-2019, Standard for the Installation of Private Fire Service Mains and Their Appurtenances;
- NFPA 30-2021, Flammable and Combustible Liquids Code;
- NFPA 30B-2019, Code for the Manufacture and Storage of Aerosol Products;
- NFPA 307-2021, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves;
- NFPA 214-2021, Standard on Water-Cooling Towers;
- NFPA 409-2016, Standard on Aircraft Hangers; and
- NFPA 750-2019, Standard on Water Mist Fire Protection Systems.

The amendments delete an unnecessary subsection (a) designation. In addition, for consistency with agency style, some words and terms are revised to be capitalized. The amendments to this section also substitute the NFPA's physical address for its web address where the public can access the NFPA standards and capitalize "installation."

Summary of Changes to Adopted Standards

NFPA 1, Fire Code. Changes to the 2018 edition of NFPA 1, which are carried into the latest edition (2021), include revisions to requirements for the application of referenced publications in Sections 1.4.1.1 and 2.1.1; references for the professional qualifications for fire inspectors, plan examiners, and fire marshals in Section 1.7.2; new minimum fire prevention inspection fre-

quencies for existing occupancies in Section 10.2.7; updates to premises identification in Section 10.11.1; new and updated marking and access criteria for photovoltaic systems in Section 11.12; new provisions for rubberized asphalt melters in Section 16.7; listing requirements for electric gates used on fire department access roads in Section 18.2.4.2.6; new provisions on the outside storage of biomass feedstock in Section 31.3.10; and new requirements for the outdoor storage of wood and wood composite pallets or listed pallets equivalent to wood in Section 34.10.3.

Chapter 38 is created to address marijuana growing, processing, or extraction facilities, and the revisions to Chapter 40 replace extracts from NFPA 654 (Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids) with extracted provisions from NFPA 652 (Standard on the Fundamentals of Combustible Dust). Section 42.10 addresses the reorganization of aircraft fuel servicing provisions in accordance with NFPA 407 (Standard for Aircraft Fuel Servicing); Section 50.7 is created to address mobile and temporary cooking operations, and there are extensive revisions of Chapter 52 on energy storage systems. A new Chapter 55 is created to address cleaning and purging of flammable gas piping systems with reference to NFPA 56 (Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems), Section 63.9 is created to address provisions for insulated liquid carbon dioxide systems extracted from NFPA 55 (Compressed Gases and Cryogenic Fluids Code), and Annex E is created to address fire-fighter breathing-air replenishment systems.

Changes to the 2021 edition of NFPA 1 include updates to Section 11.10 to address in-building emergency responder communication enhancement system requirements for better alignment with NFPA 1221 (Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems), and there are new signage requirements for non-sprinklered high-rise buildings in Section 13.3.2.25.2.4. Chapter 38 has new provisions for carbon dioxide enrichment equipment, indoor horticultural grow structures, and listing requirements for extraction equipment as they relate to cannabis facilities; new Chapter 39 is created to address wastewater treatment and collection facilities; new Chapter 46 is created to address additive manufacturing (3D printing); and new Chapter 52 is created to address the energy storage system requirements extracted from NFPA 855 (Standard for the Installation of Stationary Energy Storage Systems).

NFPA 10, Standard for Portable Fire Extinguishers. Changes to the 2018 edition of NFPA 10 incorporate clarifications on a wide array of topics, including electronic monitoring, obsolete extinguishers, extinguishers installed in areas that contain oxidizers, extinguisher signs, and extinguisher mounting equipment and cabinets. The revisions also include a new requirement regarding maintenance of hose stations that are used in lieu of extinguishers. The fire classification marking system is expanded to include markings for extinguishers rated for Class AC and Class AK. The annexes are updated to address current extinguisher types and ratings, while removing information on obsolete equipment.

NFPA 11, Standard for Low-, Medium-, and High-Expansion Foam. Changes to the 2016 edition of NFPA 11 include the reorganization and clarification of piping requirements, addressing issues regarding acceptance criteria for annual foam concentrate testing, recognition of environmentally friendly

methods of testing foam proportioners, and changes to provide that seal-only protection is permitted for composite roofs that meet specific criteria.

NFPA 12, Standard on Carbon Dioxide Extinguishing Systems. Changes to the 2015 edition of NFPA 12, which are carried into the latest edition, incorporate a general update of references and other minor improvements. In addition, a new system acceptance report is added to permit compliance with the commissioning procedures of NFPA 3 (Standard for Commissioning of Fire Protection and Life Safety Systems).

Changes to the 2018 edition of NFPA 12 include the introduction of a new requirement to conduct testing of integrated fire protection and life safety systems in accordance with NFPA 4 (Standard for Integrated Fire Protection and Life Safety System Testing). In addition, the 2018 edition changes add a new section on pipe hangers and supports and a new annex on full discharge testing. Finally, there are revisions to the equivalency statement to use the standard text, which specifies that the authority having jurisdiction is responsible for approving an equivalent system, method, or device.

NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems. Changes to the 2015 edition of NFPA 12A, which are carried into the latest edition, incorporate support for electronic storage of system maintenance records.

Changes to the 2018 edition of NFPA 12A revise the annex on nozzle and piping calculations (Annex H) to correct errors, comply with the *Manual of Style for NFPA Technical Committee Documents*, and clarify the details of the procedure.

NFPA 13, Standard for the Installation of Sprinkler Systems. Changes to the 2016 edition of NFPA 13, which are carried into the latest edition, include revisions that review all metric conversions. Historically, the document has used an "exact" conversion process, but this revision uses an approximate conversion process. Another change includes a pipe venting requirement to eliminate as much air as possible from wet pipe systems. This requirement contemplates only a single vent in each wet system. New design criteria are included for the protection of exposed, expanded Group A plastics stored in racks. Also, this revision adds a ceiling and in-rack design approach, called an "alternative protection scheme," to Chapters 16 and 17. A similar concept has existed for sprinkler protection in NFPA 30 (Flammable and Combustible Liquids Code) for several revision cycles. The revisions also add a new section on sprinkler design where cloud ceilings are installed. This design scheme allows sprinklers to be omitted above cloud ceilings when the gap between clouds (or clouds and walls) meets a maximum allowable dimension based on the floor-to-cloud ceiling height. The revisions significantly revise Chapter 10, which is extracted from NFPA 24 (Standard for the Installation of Private Fire Service Mains and Their Appurtenances), based on the rewrite of NFPA 24.

Changes to the 2019 edition of NFPA 13 include revisions that reorganize NFPA 13; it is now reordered according to how one would approach the design of a sprinkler system. Users will now find hazard classifications, water supplies, and underground piping at the beginning of the standard. The revisions divide Chapter 8 into several new chapters, breaking out general rules for sprinkler locations into one chapter and several other chapters specific to sprinkler technology. The revisions also reorganize storage chapters by sprinkler technology and address ceiling-only design. The revisions also revise Chapter 25, which now contains all the requirements for in-rack sprinklers. And

the revisions clarify requirements for vertical pipe chases and requirements for electrical equipment rooms where sprinklers can be omitted. Finally, the revisions add new beam rules for residential sprinklers and additional details.

NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes. Changes to the 2016 edition of NFPA 13D, which are carried into the latest edition, include revisions that add a new figure that addresses positioning of sprinklers to avoid obstructions where there are sloped ceilings. The revisions further clarify that once a sprinkler is removed from a fitting or welded outlet, it should not be reinstalled if torque was applied to the sprinkler itself. A new sketch shows an insulation practice using tenting in an attic or concealed space.

Changes to the 2019 edition of NFPA 13D include revisions that add beam rules for sprinklers installed under and adjacent to beams (along with new figures), requirements for closets where pressure-reducing valves are installed, and requirements where pressure-reducing and pressure-regulating valves are installed. The revisions add a section to Chapter 12 to address inactive systems in structures left vacant. The revisions clarify requirements for the use of well pumps as a water supply and add images to clarify sprinkler locations and clearances needed around fireplaces.

NFPA 13R, Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies. Changes to the 2016 edition of NFPA 13R, which are carried into the latest edition, include revisions that change the definition of "sprinkler system" to correlate with NFPA 13 (Standard for the Installation of Sprinkler Systems) and NFPA 25 (Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems), and to significantly update Annex A text for the Scope statement of the document to address mixed-use buildings and the applicability of NFPA 13R systems. The revisions also clarify that once a sprinkler is removed from a fitting or welded outlet, it should not be reinstalled if torque was applied to the sprinkler itself. The revisions update the nonmetallic piping compatibility language for consistency with NFPA 13 and reorganize and restructure the section addressing sprinkler protection outside dwelling units to make it easier for the user to follow. The revisions also add language to address sprinkler protection where the device is intended to protect a glazing assembly.

Changes to the 2019 edition of NFPA 13R include revisions that add a new definition for "carport" and add several new requirements that address where pipe and tube listed for light hazard can be used in an ordinary hazard application. There are revisions to sprinkler heads that are installed under and adjacent to beams (along with new figures); inside waste and linen systems; installation of fuel-fired equipment; and obstructions in hallways. The revisions reorganize Chapter 9 and move the domestic demand tables from the annex to the body of the standard and update values. In addition, the revisions add new images clarifying sprinkler locations and clearances needed around fireplaces.

NFPA 14, Standard for the Installation of Standpipe and Hose Systems. Changes to the 2016 edition of NFPA 14, which are carried into the latest edition, include revisions to Chapter 6 to clarify the building construction and building types under which standpipe system piping needs to be protected. The revisions add new definitions of construction types to Chapter 3. The revisions also change the horizontal exit requirements in Chapter 7 to align them with building code requirements and add new annex figures. The revisions update and reorganize Section

7.3.2 in its entirety. The revisions also clarify Section 7.6, stating that only partially sprinklered buildings require 6-inch standpipes, while all others, if in a fully sprinklered building, whether combined or not, require only 4-inch standpipes, where supported by hydraulic calculations. The revisions also change the requirement for pressure gauges to no longer require gauges to be listed, only approved.

Changes to the 2019 edition of NFPA 14 include revisions that update the terminology to make it consistent throughout the document by changing the terms "outlet(s)" and "hose outlet(s)" to "hose connection(s)." The revisions add definitions and requirements for "distance monitoring," "automated inspection," and "testing" because technology now allows for monitoring of certain conditions, as well as inspecting and testing standpipe systems from a remote location. The revisions also add a definition for "open parking garage" and a requirement that permits manual standpipes in open parking garages under a certain height.

The revisions no longer require the signage for pressure requirements when the pressure is 150 psi or less, as NFPA 13E (Recommended Practice for Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems) requires a standard pressure of 150 psi unless a sign indicates more pressure is required. The revisions increase the maximum pressure permitted at any point in the system from 350 psi to 400 psi. The revisions in Section 7.8.1 clarify that the required pressure is to be calculated at the outlet of the hose valve. The revisions change the hydraulic calculation procedures to clarify that additional standpipes should be calculated at the point of connection rather than at the topmost outlet. The revisions to Section 7.11.2 delineate between a standpipe system main drain and individual standpipe drains. The revisions also change the required number of fire department connections because of the ease with which a single connection can be compromised. Finally, the revisions add a new Chapter 13 on maritime standpipe and hose systems.

NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection. Changes to the 2017 edition of NFPA 15 include revisions on pipe support requirements and the incorporation of several new tables. To align this standard with NFPA 13 and NFPA 20 (Standard for the Installation of Stationary Pumps for Fire Protection), the revisions add a 12-month limitation on water flow test information, in addition to requirements for hydraulic design information signs and general information signs. The revisions also add a requirement that a hazard analysis be performed on the physical and chemical properties of materials, layout, design, and installation be performed by qualified persons. Finally, the revisions add new definitions for the terms "hazard analysis" and "qualified."

NFPA 16, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems. Changes to the 2015 edition of NFPA 16, which are carried into the latest edition, include revisions that update several definitions for foam-water system types, including "foam-water sprinkler system," "foam-water deluge system," "foam-water dry pipe system," and "foam-water pre-action system." The revisions also update the strainer and galvanized piping C-factor requirements to correlate with NFPA 13. The revisions make multiple changes to the standard from a system acceptance perspective, add new language to the acceptance testing criteria to confirm that the proportioning system meets the actual calculated system discharge demand at the most remote four sprinklers, and make the Contactors Material

and Test Certificate from NFPA 13 a requirement for correlation purposes.

Changes to the 2019 edition of NFPA 16 include revisions that make its organization consistent with that of the 2019 edition of NFPA 13 to present information in the order it is needed when planning and designing a foam-water sprinkler/spray system. Technical changes include the addition of requirements for working drawings using information from both NFPA 11 and NFPA 13 to provide a comprehensive list of information. The revisions also extract information about the type of foam concentrate piping from NFPA 11 to be consistent with that standard and information from NFPA 30 (Flammable and Combustible Liquids Code) to address containment, drainage, and spill control.

NFPA 17, Standard for Dry Chemical Extinguishing Systems. Changes to the 2017 edition of NFPA 17, which are carried into the latest edition, include revisions to clarify the intent of component and system requirements in Chapters 4 and 5, respectively. The revisions also include editorial changes to update the standard to comply with the *Manual of Style for NFPA Technical Committee Documents*.

Changes to the 2021 edition of NFPA 17 include revisions that provide new requirements consistent with NFPA 12 and NFPA 2001 (Standard on Clean Agent Fire Extinguishing Systems) on the methods for supporting pipe and addresses provisions on a common failure of special hazard fire extinguishing systems, consistent with NFPA 72® (National Fire Alarm and Signaling Code®) and NFPA 2001.

NFPA 17A, Standard for Wet Chemical Extinguishing Systems. Changes to the 2017 edition of NFPA 17A, which are carried into the latest edition, include revisions that eliminate redundant language within NFPA 17A and NFPA 96 (Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations) for correlation purposes. The revisions delete other sections for correlation purposes with NFPA 96. The revisions add new annex material to identify the areas of protection for the discharge nozzles. The revisions made changes requiring the authority having jurisdiction to approve used components in the system. A requirement was added for a placard to be placed near all Class K portable fire extinguishers indicating that the fire protection system must be activated before a portable fire extinguisher is used.

Changes to the 2021 edition of NFPA 17A include revisions that add a new Chapter 6 that addresses wet chemical extinguishing systems for mobile equipment. Because the application in the previous editions of the standard was limited to the protection of cooking equipment and its exhaust systems, the new Chapter 6 parallels similar requirements in NFPA 17 and addresses issues specific to wet chemical extinguishing systems. Other revisions include new provisions on the methodology of how to test for blocked piping, a new requirement that impairments be communicated in a timely manner, and modified language throughout the standard to correlate provisions between NFPA 96 and NFPA 17A.

NFPA 18, Standard on Wetting Agents. Changes to the 2017 edition of NFPA 18, which are carried into the latest edition, include both technical and editorial revisions. Technical changes include clarification that all aspects of the listing for wetting agents must be observed and an explanation on the units of the corrosion rate equation in Chapter 5. The revisions create a new section in Chapter 5 to provide requirements for alternate viscosity test methods for situations where the viscosity is too

low to obtain meaningful results. Editorial changes include updating the standard to comply with the *Manual of Style for NFPA Technical Committee Documents*.

Changes to the 2021 edition of NFPA 18 include updated references and editorial changes to make the document more user friendly.

NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection. Changes to the 2016 edition of NFPA 20, which are carried into the latest edition, include revisions that provide new requirements for pumps in series relative to the protection of control wiring, status signals, and communications. NFPA 20 recognized the potential use of multistage, multiport pumps in fire suppression systems and provided requirements specific to that application. The revisions remove break tank criteria, which are now in accordance with NFPA 22 (Standard for Water Tanks for Private Fire Protection). The revisions add Annex C to provide guidance on controller security where a controller is connected to the internet. The revisions to Chapter 4 add new requirements to address use of an automatic fuel maintenance system with a diesel fire pump installation, and protection criteria for both a diesel fire pump room and an electric fire pump room.

Changes to the 2019 edition of NFPA 20 include revisions that recognize new technologies, including automated inspection and testing, distance monitoring, automated valves, and self-regulating variable speed fire pump units. The revisions add new provisions to require that a single entity be responsible for acceptable fire pump unit performance. The revisions add a new definition for "lowest permissible suction pressure" to provide a better understanding of the maximum available flow by connecting it to a suction pressure. The revisions add requirements to clarify where manifolding of fire pump test piping is permitted, as well as where combining fire pump test piping with relief valve discharge piping is permitted.

The revisions also add new definitions to differentiate between "standby power" and "alternate power" and to ensure proper application of these terms throughout the document. The revisions define the term "very tall building" and expand the requirements pertaining to these buildings, including those for automatic tank refill valves. The revisions add new requirements and annex material to help package designers through the evaluation of mass elastic systems, as well as revise requirements for hydraulic cranking systems to distinguish between systems used as primary cranking systems and those used as secondary cranking systems. Finally, the revisions change Annex C to make data formatting more universal.

NFPA 22, Standard for Water Tanks for Private Fire Protection. Changes to the 2018 edition of NFPA 22 include revisions to Chapters 5 and 6 that remove duplicate requirements to American Water Works Association (AWWA) D100 (Welded Carbon Steel Tanks for Water Storage) and D103 (Factory-Coated Bolted Carbon Steel Tanks for Water Storage) and make references to AWWA D100 and D103 for the design, fabrication, and erection of water tanks, and requirements specific to fire protection remain. The revisions in Chapter 14 clarify requirements for check valves in the discharge pipe of a suction tank and modify tank repair requirements requiring the impairment procedures of NFPA 25 (Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems) to be followed. And the revisions in Chapter 16 add new criteria for electric immersion heaters and remove the lowest one-day

mean temperature map to instead use calculations to determine tank-heating needs.

NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances. Changes to the 2016 edition of NFPA 24, which are carried into the latest edition, include revisions that clarify the hydrant definitions to describe the type of hydrant in question, as opposed to describing when and where they would be used. The revisions rewrite the valve arrangement requirements for clarity, and annex figures are added to provide figures consistent with NFPA 13. The revisions change the title of Chapter 6 from "Valves" to "Water Supply Connections" to better describe the material in the chapter. Revisions in Section 6.1 more clearly describe the permitted exceptions to indicating valves and permit non-listed tapping sleeve and valve assemblies in connections to municipal water supplies. The revisions update the center of hose outlet measurements to include clear minimum and maximum values for the location of the outlet, along with the appropriate measurement for a hose house installation. The revisions remove steel underground piping references from the table in Chapter 10 because steel pipe is required to be listed other than in the fire department connection (FDC) line. The revisions also add a statement to allow underground fittings to be used above the ground to transition to aboveground piping.

Changes to the 2019 edition of NFPA 24 include revisions related to trenching and backfill. The revisions include acceptance testing requirements for aboveground piping and revise the standard to clarify the unacceptable use of steel piping for underground service.

NFPA 25, Standard for Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems. Changes to the 2017 edition of NFPA 25, which are carried into the latest edition, include revisions that define the new fire pump terms to align with NFPA 20. The revisions also add criteria to Chapter 4 on automated inspections and testing. The revisions add residential sprinkler replacement requirements to address sprinklers that are no longer available; add new requirements regarding missing escutcheons or, if listed, escutcheons that are no longer available; update the inspection, testing, and maintenance tables throughout the chapters; and add new no-flow test requirements for fire pumps. Revisions to Chapter 13 add new requirements for the inspection, testing, and maintenance of waterflow alarm devices, and pre-action and deluge valves. The revisions also add criteria for air compressors. This edition contains all the general pressure gauge criteria. In addition, the revisions added two new annexes: one on connectivity and data collection and another on color-coded tagging programs.

Changes to the 2020 edition of NFPA 25 include revisions that define the term "electrically operated sprinklers," which is a new technology. The revisions add periodic inspection, testing, and maintenance requirements. The revisions add requirements addressing recalled sprinklers to Chapter 4 and a section on dry hydrants to Chapter 7. The revisions also modify dry sprinkler test requirements from 10 years to 15 years and clarify the automated testing requirements for waterflow alarm devices. The revisions to Chapter 8 clarify, for safety reasons, that energized pump controllers should not be opened and introduce the concept of an isolating switch in a separate compartment as part of the pump controller. The revisions also revise the fire pump annual flow test and evaluation requirements for the test and add new requirements to Chapter 12 regarding water mist systems.

NFPA 30, Flammable and Combustible Liquids Code. Changes to the 2015 edition of NFPA 30, which are carried into the latest edition, include revisions that impose a 12-foot (3.6 m) storage height restriction on unprotected storage in mercantile occupancies, to be consistent with the storage height restriction already in place for mercantile occupancies protected in accordance with NFPA 13, for ordinary hazard Group 2. The revisions change Chapter 16 to clarify intent and to eliminate certain inconsistencies between NFPA 30 and NFPA 13, and to correlate terminology and specific requirements in NFPA 13. Revisions to Chapter 17 and 27 reflect recommendations submitted to NFPA by the U.S. Chemical Safety and Hazard Investigation Board. The revisions add a new Annex A item, A.21.7.2.2, to address security of storage tanks in remote unattended locations at the recommendation of the U.S. Chemical Safety and Hazard Investigation Board.

Changes to the 2018 edition of NFPA 30, which are carried into the latest edition, include revising 9.4.1, which sets forth the types of containers considered acceptable under the code, to add item (8), which recognizes nonmetallic intermediate bulk containers that can satisfy the fire exposure test protocols in Section 9.4.1.1. The revisions update Section 9.4.1.1 to specifically reference UL 2368 (UL Standard Sales Site) and FM Class 6020 (Approval Standard for Intermediate Bulk Containers). The revisions replace Section 12.8 with provisions that allow only specific liquid/container combinations to be stored in such facilities. These combinations are allowed in unlimited quantities, but they must be protected in accordance with the fire protection design criteria in Chapter 16. For consistency, the revisions update Section 12.3.1 and delete (former) Section 12.3.2.

Changes to the 2021 edition of NFPA 30 include revisions to the classification scheme for liquids. The term "ignitable liquid" has been introduced to initiate a process that no longer uses the terms "flammable liquid" and "combustible liquid." This causes the requirements in NFPA 30 and other codes and standards to adopt a scheme based exclusively on the liquid physical state and property (i.e., the liquid flash point) for all liquids that can be ignited. The revisions to Chapter 4 address the classification criteria, whereas Chapter 3 defines specific liquids. The revisions to Chapters 1, 3, and 4 make the requirements consistent with each other in terms of the scope of the code, specific terminology, and the evaluation of liquids within the classification scheme.

NFPA 30B, Code for the Manufacture and Storage of Aerosol Products. Changes to the 2015 edition of NFPA 30B, which are carried into the latest edition, include revisions in Chapters 6 and 7 to incorporate coverage of aerosol cooking spray products and coverage of "plastic aerosol 1" and "plastic aerosol X" products, including classification of such products and protection guidance. The revisions update Section 1.9 to accommodate aerosol cooking spray products and plastic aerosol products. The revisions in Chapter 3 redefine and add several new definitions and terms relating to the manufacture of aerosol products and delete definitions of sprinkler types to eliminate any potential conflict with NFPA 13. The revisions change provisions for the hazardous (classified) location area classification by combining the previous separate requirements for button tippers and test baths into a single set of requirements and by adding additional requirements applicable to button tippers.

The revisions clarify provisions of Section 5.8.2 for storing finished product in production areas and add new requirements for storing finished aerosol products in plastic containers in pro-

duction areas. The revisions improve Section 5.13.2 by extending applicability to under-the-cup (UTC) propellant fillers and by eliminating redundant text. The revisions update Section 5.13.3 to consolidate changes made in prior editions into a single section, making these provisions more coherent. The revisions expand Section 5.13.4 to apply to propellant heaters as well as propellant pumps. The revisions change Section 5.15 to designate aerosol product laboratories that handle flammable gases or flammable liquids as Class A laboratory units, in accordance with NFPA 45 (Standard on Fire Protection for Laboratories Using Chemicals).

The revisions also add a new section to provide specific fire protection requirements for aerosol cooking spray products. The revisions to the existing fire protection requirements for Level 2 and Level 3 aerosol products allow the use of intermediate temperature sprinklers in unconditioned spaces. The revisions change the terminology to correlate with that used in NFPA 13. In many of the sprinkler system design tables, the revisions now allow larger orifice sprinklers to be used, based on demonstrated performance. The revisions change several paragraphs to correlate with provisions of NFPA 13. The revisions add a new section to provide specific fire protection requirements for aerosol products in plastic containers. The revisions also add a new section to establish quantity limitations on plastic aerosol X products in mercantile occupancies. The revisions clarify various portions of Annex A's text and remove redundant text. The revisions amend Annex B to clarify existing text and to correlate with changes in terminology in the body of the code.

Changes to the 2019 edition of NFPA 30B include revisions that add definitions for "palletized" and "solid-piled storage," provide Annex material for other definitions, modify the definition of "Aerosol Product" to include propellant-only products, and add a definition for "Aerosol Valve." The revisions add a new category of aerosol products, Plastic Aerosol X; reaffirms the language in TIA 15-1 (Tentative Interim Amendment) on Aerosol Product Laboratories; and modifies the fire protection tables in Section 6.4.2.7 to provide clarification as to the application of ceiling-only protection. The revisions also clarify the provisions for in-rack sprinklers in solid shelves in Section 6.4.2.12. TIA 1369 provides newly developed fire protection criteria for Plastic Aerosol 3 products. The fact that these new products represent a fire hazard was not in the previous guidance in NFPA 30B.

NFPA 33, Standard for Spray Application Using Flammable or Combustible Materials. Changes to the 2016 edition of NFPA 33, which are carried into the latest edition, include revisions that update Chapter 1 to include indoor and outdoor spray application processes and operations within temporary membrane enclosures. The revisions also update Chapter 9 to allow for the use of water mist systems and to clarify the sprinkler design area requirement. The revisions also update a figure in Chapter 14 to improve consistency and to clarify the electrical classification requirements in the document. The revisions update Chapter 15 to incorporate the requirements for combustible dusts that are present in operations. Lastly, the revisions add new Chapter 18 to address the use of temporary membrane enclosures.

Changes to the 2018 edition of NFPA 33 include revisions that update Chapter 3 to include new or revised definitions for "automated spray application operations," "basement," "control area," "dry particulate scrubber spray booth," and "workstation." The revisions also update Chapter 5 to address the confusion between spray rooms and spray booths. The revisions update figures in Chapter 6 to improve consistency and to clarify electrical clas-

sification requirements in the document. The revisions update Chapter 7 to provide clarification on the heating of recirculated air and the manifolding of exhaust ducts.

NFPA 70, National Electrical Code. Changes to the 2020 edition of NFPA 70 include revisions that provide the latest benchmark for safe electrical design, installation, and inspection to protect people and property from electrical hazards. The revisions include technical and editorial revisions.

NFPA 72, National Fire Alarm and Signaling Code. Changes to the 2016 edition of NFPA 72, which are carried into the latest edition, include revisions that make updates related to documentation. The revisions update Chapter 7 to add items to the minimum documentation, documentation for new emergency communications systems, and software documentation requirements, and to address review of electronic documentation media formats. The revisions clarify requirements for documentation of qualifications for the system designer and personnel who program systems while allowing for system design trainees and adds new criteria for plans examiners and inspectors.

In addition, the revisions add Class N, which addresses ethernet infrastructures for alarm and signaling systems, and pathway performance and installation criteria. The revisions update Class A and Class X pathway separation requirements to address emergency control function interface devices controlled by the fire alarm system on those circuits.

The revisions also update Level 2 and Level 3 pathway survivability requirements, which provided flexibility of use and addressed other fire-resistive methods. The revisions add language relative to recalled equipment observed during inspection and testing and clarify the intent of periodic visual inspections relative to building or other changes that could affect the performance of the system. With the exception of reference and requirements pertaining to survivability, the revisions relocate requirements for the design, installation, testing, and maintenance of in-building emergency radio communications enhancement systems to NFPA 1221 (Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems). The revisions in Chapter 17 update the requirements for total coverage and expand its annex language to address general consideration for elevator shafts and enclosed stairways. The revisions update the requirements for placement of smoke detectors used for door release to provide additional flexibility in locating detectors.

Additional revisions restructure Chapter 24, providing greater user friendliness while expanding the section on risk analysis. The revisions emphasize the importance of effective message development. The revisions add Annex G, Guidelines for Emergency Communication Strategies for Buildings and Campuses, based on the National Institute of Standards and Technology and Fire Protection Research Foundation research. The revisions in Chapter 26 update the language to require that when multiple communication paths are used for performance-based technologies, or the two transmission means for a digital alarm communicator transmitter, they should be arranged to avoid a single point of failure. The revisions in Chapter 29 add requirements pertaining to remote resetting and silencing of a fire alarm control unit from other than the protected premises for a minimum of four minutes from the initial activation of the fire alarm signal. Smartphones and internet access to almost any device made remote access to residential equipment possible. The revisions also address the ability to establish remote access to a fire alarm system and create a new requirement that establishes that when

a communication or transmission means other than digital alarm communicator transmitter is used, all equipment necessary to transmit an alarm signal must be provided with a minimum of 24 hours of secondary power capacity.

Changes to the 2019 edition of NFPA 72 include the addition of requirements for fire service access elevators and occupant evacuation elevators to coordinate with changes made in ASME A17.1/CSA B44 (Safety Code for Elevators and Escalators). The revisions update requirements for occupant evacuation operation. The revisions add Annex text for clarification, as was Figure A.21.6, Simplified Occupant Evacuation Operation (elevator system interface with the building fire alarm system based on ASME A17.1, Section 2.27.11; and NFPA 72, Section 21.6). In addition to the requirements for area of refuge (area of rescue assistance), the revisions update Chapter 24 to include requirements for stairway communications systems, elevator landing communications systems, and occupant evacuation elevator lobby communications systems.

The revisions include updates to technical references. For many years, when codes required visual (or visible) notification in addition to audible notification, strobe lights meeting the requirements of Chapter 18 were used. With newer LED products that can be used for fire alarms, the revisions change the terms "strobe," "light," and "visible" to "visual notification appliance." The revisions change the terms "speaker" and "high power speaker array" to "loudspeaker" and "high power loudspeaker array" for consistency. Material from NFPA 720 (Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment) is relocated to various chapters of NFPA 72. The revisions incorporate these requirements into Chapter 17 for carbon monoxide detectors; Chapter 14 for installation, testing, and maintenance; Chapter 29 for carbon monoxide alarms; and new Annex H. The revisions incorporate valve-regulated lead-acid batteries into Chapter 14. The revisions update the inspection and testing requirements in Tables 14.3.1 and 14.4.3.2. The revisions also expand the annex language to address use and testing of these batteries. Finally, the revisions introduce and define several new terms in Chapter 3.

NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems. Changes to the 2015 edition of NFPA 90A, which are carried into the latest edition, include revisions that primarily make editorial updates, reference updates, and clarify existing language. Also, the revisions add a section and test method for air dispersion systems.

Changes to the 2018 edition of NFPA 90A, which are carried into the latest edition, include revisions that primarily make editorial updates, reference updates, clarify existing language, and correct terminology. Also, the revisions add an option for testing flame spread of plastic pipe for use in plenums.

Changes to the 2021 edition of 90A include revisions that primarily make editorial updates, reference updates, and clarify existing language. In the referenced publications, the revisions update all UL publications to remove the term "ANSI" for clarification.

NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. Changes to the 2017 edition of NFPA 96, which are carried into the latest edition, include revisions that add a new normative annex on mobile and temporary cooking operations. The normative annex was written in mandatory language but was not intended to be enforced unless specifically adopted by a jurisdiction or applied on a voluntary basis. This new annex includes requirements for clearance, hoods,

ducts, terminations, fire extinguishing systems, carbon monoxide detectors, location, training, generators, and LP-gas, as well as procedures for the use, inspection, testing, and maintenance of equipment. The language in the body of the standard clarifies that fixed and mobile cooking equipment is covered by NFPA 96. The revisions use the term "solid fuel" instead of "charcoal" to cover the different types of solid fuel. A device installed in a duct such as a pollution control device now must be protected by its own fire extinguishing system.

Changes to the 2021 edition of NFPA 96 include revisions that add a new chapter on mobile and temporary cooking operations. The revisions move this content, formerly located in normative Annex B, into the body of the standard to provide the minimum fire safety requirements for mobile and temporary cooking operations. The revisions remove duplicate requirements related to this subject and modify language throughout the standard to clarify the provisions for buildings as well as mobile and temporary cooking operations. Lastly, these changes replace the term "activate" with the correct term "actuate" throughout the standard.

NFPA 101, Life Safety Code. Changes to the 2018 edition of NFPA 101, which are carried into the latest edition, include revisions that expand the code's scope to include hazardous materials emergencies, injuries from falls, and emergency communications. The revisions to Chapter 4 add a reference to NFPA 241 (Standard for Safeguarding Construction, Alteration, and Demolition Operations) for construction, alteration, and demolition operations, and new requirements for fire-retardant-treated wood. The changes revise the terms "electrically controlled egress door assemblies," "delayed-egress locking systems," and "access-controlled egress door assemblies" in Chapter 7 to "door hardware release of electrically locked egress door assemblies," "delayed-egress electrical locking systems," and "sensor-release of electrical locking systems," respectively. Further changes in Chapter 7 add criteria that permits occupant loads to be reduced to available egress capacity as was previously permitted only for building rehabilitation.

Chapter 8's revisions add wall marking and identification provisions for fire barriers, smoke barriers, and smoke partitions. The revisions also reorganize opening protective requirements. The changes to Chapter 9 add a reference to NFPA 4 (Standard for Integrated Fire Protection and Life Safety System Testing) for integrated fire protection and life safety system testing and add new provisions for risk analyses for mass notification systems. The revisions to Chapter 10 change the interior finish requirements for expanded vinyl wall coverings, textile wall, and ceiling coverings. They also add new provisions for laminated products and facings or wood veneers. The changes in Chapter 11 revise the provisions for airport traffic control towers and reorganize the emergency lighting and standby power requirements for high-rise buildings. The changes classify animal housing facilities as special structures. The changes also add carbon-monoxide detection requirements for new assembly occupancies to Chapter 12.

The revisions to Chapters 14 - 17, 38, and 39 add criteria for door locking to prevent unwanted entry in educational, daycare, and business occupancies. The changes revise the sprinkler requirement threshold for new educational occupancies in Chapter 14. The changes modify health care corridor projection allowances in Chapters 18 and 19 to correlate with accessibility standards and to permit the installation of emergency stair travel devices and self-retracting seats. The changes add new provisions to permit health care and ambulatory health care smoke compart-

ments up to 40,000 square feet (3,720 square meters) in area. The changes also revise the door locking provisions for patient special needs in ambulatory health care occupancies in Chapters 20 and 21.

In Chapter 24, the changes add criteria for bathtub and shower grab bars. The changes also add attic protection requirements to Chapters 28 and 30 for certain new hotels and dormitories and apartment buildings. In Chapter 32, the revisions add carbon-monoxide detection requirements for new residential board and care occupancies were added. The changes also revise mall terminology in Chapters 36 and 37 and add new provisions to differentiate between open and enclosed mall concourses. In Chapters 38 and 39, the revisions add a reference to NFPA 99 for medical gases in business occupancies. The changes also add a new Annex C to provide guidance on several NFPA hazardous materials standards.

Changes to the 2021 edition of NFPA 101 include revisions that allow a second door lock/latch releasing motion on existing educational and daycare occupancy classroom doors to accommodate lockdown events; require mandatory sprinklers in new daycare occupancies with more than 12 clients; and modify sprinkler requirements for existing high-rise buildings containing ambulatory health care, business, industrial, or apartment building occupancies. The revisions also modify construction limits for existing nursing homes; clarify that non-required fire doors are not subject to the inspection requirements of NFPA 80 (Standard for Fire Doors and Other Opening Protectives); add provisions for temporary barriers to separate areas under construction in health care and ambulatory health care occupancies; and update criteria for special amusement buildings.

Further revisions require mandatory sprinkler requirement for new bars and restaurants with an occupant load of 50 or more; add a minimum requirement for fire department two-way communication signal strength in all new buildings; add a carbon monoxide detection requirement for existing hotels and dormitories; add a requirement for low-frequency fire alarm notification signals in new hotel, dormitory, and apartment building sleeping rooms per NFPA 72; and add provisions for burglar bars/grates on means of escape windows in residential occupancies.

NFPA 214, Standard on Water-Cooling Towers. Changes to the 2016 edition of NFPA 214, which are carried into the latest edition, include revisions that better align the sprinkler requirements within the standard with the types of systems defined in NFPA 13.

Changes to the 2021 edition of NFPA 214 include revisions that update the references in the document. Two notable exceptions are the updated definition for "fire-resistant partition" and the requirement to evaluate certain factors when determining proper fire protections in Chapter 4. Previously, the definition of "fire-resistant partition" directed the user to a mandatory requirement, which is not allowed by the *Manual of Style for NFPA Technical Committee Documents*. This provides clearer requirements for the authority having jurisdiction.

NFPA 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves. Changes to the 2016 edition of NFPA 307, which are carried into the latest edition, include revisions that make references to NFPA 5000 (Building Construction and Safety Code®), wherever possible, particularly for requirements related to the design, materials, and workmanship of pier and wharf construction and other structures within the facility. The standard lets the authority having jurisdiction con-

sider other codes or standards when approving marine terminal construction plans. Previous editions of the standard addressed only cargo-handling facilities. The revisions also include construction requirements that apply to marine terminals designed for passenger vessels.

Changes to the 2021 edition of NFPA 307 include revisions that add a new annex to inform municipal and industrial firefighters about marine firefighting (MFF) requirements that vessel owners or operators (plan holders) must meet in their respective vessel response plans. The annex also provides details on specific responsibilities of plan holders and their contracted MFF service providers. The revisions direct users to NFPA 14, for requirements relating to standpipes and hose systems for marine terminals. NFPA 307 now requires that fire protection water supplies be inspected, tested, and maintained in accordance with NFPA 25, to ensure that water supply systems are operational when needed in the event of a fire or other emergency. Because marine terminal structures have specific fire safety challenges, a fire risk assessment should be performed in the design phase of construction, and it now provides a list of resources to facilitate this assessment process.

NFPA 409, Standard on Aircraft Hangars. Changes to the 2016 edition of NFPA 409 include revisions that relax the requirements for divided water reservoirs, redundant fire pumps, and reserve supplies of foam concentrate, among others. In addition, the revisions change the requirements for the zoning of low-level foam systems to permit Group I and Group II hangars and simplify Chapter 8 for Group III hangars.

NFPA 750, Standard on Water Mist Fire Protection Systems. Changes to the 2015 edition of NFPA 750, which are carried into the latest edition, include updates that provide additional information on design water mist systems for various defined occupancies. The revisions add two chapters to address the dynamics of occupancy classification in designing a water mist system: Chapter 5, Classification of Occupancies, and Chapter 10, Occupancy Protection Systems. In addition, the revisions remove the inspection, testing, and maintenance sections for water mist systems, other than those installed in one- and two-family dwellings and now reference NFPA 25.

Changes to the 2019 edition of NFPA 750 include revisions that clarify the definitions of a "gridded water mist system" and "twin-fluid system," which devices can be used as automatic means, which components can be used as provisions for cleaning, and the requirements for pressure-indicating devices used on a common manifold system. The revisions also clarify a listed system requirement that any mixed components or systems have been tested together and expand requirements to include configurations allowed in current listed solutions.

In addition, the revisions added new sections specifying design, testing, and installation of pre-action water mist systems. The revisions added another section to prevent debris and contaminants from entering a water mist system by requiring a strainer or filter after the FDC. The revisions also clarify the location of the FDC on a low-pressure water mist system. Throughout the standard, the revisions replace the terms "pressure container" and "pressurized container" with the newly defined term "pressure vessel," and replace the phrase "safety device to release excess pressure" with "pressure relief device" to maintain consistency with industry practices and terminology. Finally, the revisions also update referenced documents, extracts, and formatting to comply with the *Manual of Style for NFPA Technical Committee Documents*.

NFPA 2001, Standard on Clean Agent Fire Extinguisher Systems. The revisions to the 2015 edition of NFPA 2001, which are carried into the latest edition, add new content regarding recycling and disposal of clean agents and new system design criteria for 200-bar and 300-bar IG-01 systems. The revisions also add a sample system acceptance report to aid in conformance with commissioning practices. The revisions made by the committee include a completed update of all references and a review of the pipe design criteria against the referenced piping code. The revisions to this edition also revise the requirements for cylinder location, enclosure integrity, and unoccupied spaces.

Changes to the 2018 edition of NFPA 2001 include revisions that reorganize the chapter on inspection, testing, maintenance, and training to improve usability of the standard and to comply with the *Manual of Style for NFPA Technical Committee Documents*. These revisions are split into two distinct chapters: Chapter 7, Approval of Installations, and Chapter 8, Inspection, Servicing, Testing, Maintenance, and Training. The revisions also add definitions for "inspection," "maintenance," and "service," and add a requirement for integrated fire protection and life safety systems to be tested in accordance with NFPA 4. In addition, the revisions to the standard require an egress-time study for all clean agent systems, not just those where the design concentration is greater than the No Observed Adverse Effect Level. The revisions also add a definition of "abort switch" and revise the definition of "clean agent." The revisions also update the requirements for pipe and fittings in accordance with the latest reference standards. Lastly, the revisions add a new section on pipe hangers and supports.

NFPA 2010, Standard for Fixed Aerosol Fire Extinguishing Systems. Changes to the 2015 edition of NFPA 2010, which are carried into the latest edition, include revisions that revise the frequency of system inspections and add references to third-party approval standards.

Changes to the 2020 edition of NFPA 2010 include revisions that remove dispersed aerosol systems from the document scope and delete all requirements that are not relevant to condensed aerosol systems. New requirements address the use of aerosol extinguishing systems in normally occupied spaces. Revised text clarifies that an enclosure integrity test is not required and addresses compensation for leakage and enclosure ceiling height when determining the aerosol agent quantity. Lastly, the revisions made general improvements of readability and clarity throughout.

UL 827, Standard for Central Station Alarm Services. The revised standard for UL 827 makes technical and editorial revisions.

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

SUBCHAPTER C. STANDARDS AND FEES FOR STATE FIRE MARSHAL INSPECTIONS DIVISION 1. GENERAL PROVISIONS

34 TAC §34.303

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.303 under Government Code §§417.005, 417.008(e), and 417.0081 and Insurance Code §36.001.

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary

to guide the state fire marshal in the performance of other duties for the commissioner.

Government Code §417.008(e) provides that the commissioner may adopt by rule any appropriate standard related to fire danger developed by a nationally recognized standards-making association.

Government Code §417.0081 provides that the commissioner by rule shall adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings and providing for the inspection of each building to which this section applies.

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

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 March 20, 2023.

TRD-202301097

Jessica Barta

General Counsel

Texas Department of Insurance

Effective date: September 1, 2023

Proposal publication date: December 23, 2022

For further information, please call: (512) 676-6587



SUBCHAPTER E. FIRE EXTINGUISHER RULES

28 TAC §34.507

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.507 under Government Code §417.004 and §417.005, and Insurance Code §§6001.051(a), (b); 6001.052(a) - (c); and 36.001.

Government Code §417.004 provides that the commissioner performs the rulemaking functions previously performed by the Texas Commission on Fire Protection.

Government Code §417.005 provides that the commissioner may, after consulting with the state fire marshal, adopt necessary rules to guide the state fire marshal in the investigation of arson, fire, and suspected arson and in the performance of other duties for the commissioner.

Insurance Code §6001.051(a) provides that TDI administer Insurance Code Chapter 6001.

Insurance Code §6001.051(b) provides that the commissioner may issue rules the commissioner considers necessary to administer Chapter 6001 through the state fire marshal.

Insurance Code §6001.052(a) provides that in adopting necessary rules, the commissioner may use recognized standards, including standards published by the National Fire Protection Association.

Insurance Code §6001.052(b) provides that the commissioner adopt and administer rules determined essentially necessary for the protection and preservation of life and property regarding (1) registration of firms engaged in the business of installing or

servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems, or hydrostatic testing of fire extinguisher cylinders; (2) the examination and licensing of individuals to install or service portable fire extinguishers and plan, certify, install, or service fixed fire extinguisher systems; and (3) requirements for installing or servicing portable fire extinguishers and planning, certifying, installing, or servicing fixed fire extinguisher systems.

Insurance Code §6001.052(c) provides that the commissioner by rule prescribe requirements for applications and qualifications for licenses, permits, and certificates issued under this chapter.

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

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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Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6587



SUBCHAPTER F. FIRE ALARM RULES

28 TAC §34.607

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.607 under Government Code §417.004 and §417.005, and Insurance Code §§6002.051(a), (b); 6002.052(a)-(c); 6002.054(a); and 36.001.

Government Code §417.004 provides that the commissioner performs the rulemaking functions previously performed by the Texas Commission on Fire Protection.

Government Code §417.005 provides that the commissioner may, after consulting with the state fire marshal, adopt necessary rules to guide the state fire marshal in the investigation of arson, fire, and suspected arson, and in the performance of other duties for the commissioner.

Insurance Code §6002.051(a) provides that TDI administer Insurance Code Chapter 6002.

Insurance Code §6002.051(b) provides that the commissioner may issue rules necessary to administer Chapter 6002 through the state fire marshal.

Insurance Code §6002.052(a) provides that in adopting necessary rules, the commissioner may use recognized standards, including standards adopted by the NFPA.

Insurance Code §6002.052(b) specifies that rules adopted under §6002.051 may create specialized licenses or registration certificates for an organization or individual engaged in the business of planning, certifying, leasing, selling, servicing, installing, monitoring, or maintaining fire alarm or fire detection devices or systems and that the rules must establish appropriate training

and qualification standards for each kind of license and certificate.

Insurance Code §6002.052(c) specifies that the commissioner must also adopt standards applicable to fire alarm devices, equipment, or systems regulated under this chapter and that in adopting these standards, the commissioner may allow the operation of a fire alarm monitoring station that relies on fire alarm devices or equipment approved or listed by a nationally recognized testing laboratory without regard to whether the monitoring station is approved or listed by a nationally recognized testing laboratory if the operator of the station demonstrates that the station operating standards are substantially equivalent to those required to be approved or listed.

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

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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Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6587



SUBCHAPTER G. FIRE SPRINKLER RULES

28 TAC §34.707

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.707 under Government Code §417.004 and §417.005, and Insurance Code §§6003.051(a), (b); 6003.052(a); 6003.054(a); and 36.001.

Government Code §417.004 provides that the commissioner perform the rulemaking functions previously performed by the Texas Commission on Fire Protection.

Government Code §417.005 provides that the commissioner may, after consulting with the state fire marshal, adopt necessary rules to guide the state fire marshal in the investigation of arson, fire, and suspected arson, and in the performance of other duties for the commissioner.

Insurance Code §6003.051(a) provides that TDI administer Chapter 6003.

Insurance Code §6003.051(b) provides that the commissioner may issue rules necessary to administer Chapter 6003 through the state fire marshal.

Insurance Code §6003.052(a) provides that in adopting necessary rules, the commissioner may use recognized standards, including standards adopted by the NFPA.

Insurance Code §6003.054(a) provides that the state fire marshal must implement the rules adopted by the commissioner for the protection and preservation of life and property in controlling (1) the registration of an individual or an organization engaged in

the business of planning, selling, installing, maintaining, or servicing fire protection sprinkler systems; and (2) the requirements for the plan, sale, installation, maintenance, or servicing of fire protection sprinkler systems by determining the criteria and qualifications for registration certificate and license holders; evaluating the qualifications of an applicant for a registration certificate to engage in the business of planning, selling, installing, maintaining, or servicing fire protection sprinkler systems; conducting examinations and evaluating the qualifications of a license applicant; and issuing registration certificates and licenses to qualified applicants.

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

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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Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6587





REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Department of Licensing and Regulation

Title 16, Part 4

The Texas Department of Licensing and Regulation (Department) files this Notice of Intent to Review to consider for re-adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 16, Part 4, of the Texas Administrative Code. This review is being conducted in accordance with Texas Government Code §2001.039.

Rule Chapters Under Review

Chapter 83, Barbers and Cosmetologists

During the review, the Department will assess whether the reasons for adopting or readopting the rules in this chapter continue to exist. The Department will review each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current Department procedures. This review is required every four years.

Written comments regarding the review of this chapter may be submitted electronically on the Department's website at <https://ga.tdlr.texas.gov:1443/form/gcerules> (select the appropriate chapter name for your comment); by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

Any proposed changes to the rules in this chapter as a result of the rule review will be published in the Proposed Rules section of the *Texas Register*. The proposed rules will be open for public comment before final adoption by the Texas Commission of Licensing and Regulation, the Department's governing body, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202301087

Della Lindquist

Interim General Counsel

Texas Department of Licensing and Regulation

Filed: March 17, 2023



Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

Proposed Rule Review

The Texas Department of Insurance, Division of Workers' Compensation (DWC) will review all sections in 28 Texas Administrative Code:

- Chapter 41 (Practice and Procedure);
- Chapter 42 (Medical Benefits);
- Chapter 43 (Insurance Coverage);
- Chapter 45 (Employer's Report of Injury or Disease);
- Chapter 47 (Employee Notice of Injury or Death and Claim for Benefits);
- Chapter 49 (Procedures for Formal Hearings by the Board);
- Chapter 51 (Award of the Board);
- Chapter 53 (Carrier's Report of Initiation and Suspension of Compensation Payments);
- Chapter 55 (Lump Sum Payments);
- Chapter 56 (Structured Compromise Settlement Agreements);
- Chapter 59 (Notices of Intention to Appeal);
- Chapter 61 (Prehearing Conferences);
- Chapter 63 (Promptness of First Payment);
- Chapter 64 (Representing Claimants Before the Board);
- Chapter 65 (Unethical or Fraudulent Claims Practices);
- Chapter 67 (Allegations of Fraud); and
- Chapter 69 (Medical Examination Orders).

This review complies with the requirements for periodic rule review under Texas Government Code §2001.039.

DWC will consider whether the reasons for initially adopting these rules continue to exist, and whether these rules should be repealed, readopted, or readopted with amendments.

Comments

To comment on this review, you must:

- Submit your written comments by 5 p.m., Central time, on May 1, 2023.
- Specify the rule to which your comment applies.
- Include any proposed alternative language.

Send your written comments or hearing request to RuleComments@tdi.texas.gov or to:

Legal Services, MC-LS

Texas Department of Insurance, Division of Workers' Compensation

P.O. Box 12050

Austin, Texas 78711-2050

DWC may consider any suggested repeals or amendments identified during this rule review in future rulemaking under Texas Government Code Chapter 2001 (Administrative Procedure).

TRD-202301136

Kara Mace

Deputy Commissioner for Legal Services

Texas Department of Insurance, Division of Workers' Compensation

Filed: March 21, 2023

Adopted Rule Reviews

Prescribed Burning Board

Title 4, Part 13

The Texas Prescribed Burning Board (Board), a semi-independent board administratively attached to the Texas Department of Agriculture (Department), files this notice that the Board and Department have completed reviewing Texas Administrative Code, Title 4, Part 13, Chapter 225 (General Provisions), Chapter 226 (Requirements for Certification by the Board), Chapter 227 (Requirements for Certified and Insured Prescribed Burn Managers), Chapter 228 (Procedures for Certified and Insured Prescribed Burn Managers), Chapter 229 (Continuing Fire Training), and Chapter 230 (Lead Burning Instructor Requirements) pursuant to Texas Government Code §2001.039. The notice of proposed rule review was published in August 12, 2022, issue of the *Texas Register* (47 TexReg 4859). No comments were received as a result of the notice.

The Board finds that the reasons for initially adopting Chapter 225 continue to exist and readopts §§225.1 - 225.4 with changes and §225.5 with no changes.

The Board finds that the reasons for initially adopting Chapter 226 continue to exist and readopts §§226.1 - 226.3, 226.5 - 226.7 with changes and §226.4 with no changes.

The Board finds that the reasons for initially adopting Chapter 227 continue to exist, with the exception of §227.3, and readopts §227.1 and §227.4 with changes.

The Board finds that the reasons for initially adopting Chapter 228 continue to exist and readopts §§228.1 - 228.4 with changes.

The Board finds that the reasons for initially adopting Chapter 229 continue to exist and readopts §§229.1 - 229.4 with changes.

The Board finds that the reasons for initially adopting Chapter 230 continue to exist and readopts §§230.1 - 230.4 with changes.

As a result of this rule review, the Board proposes amendments to the rules, as noted above, and the repeal of §227.3, which can be found in the Proposed Rules section of this issue.

TRD-202301088

Skyler Shafer

Assistant General Counsel

Prescribed Burning Board

Filed: March 17, 2023

Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in its entirety, contained in Title 25, Part 1 of the Texas Administrative Code:

Chapter 181, Vital Statistics

Subchapter A, Miscellaneous Provisions

Subchapter B, Vital Records

Subchapter C, Central Adoption Registry

Subchapter D, Birth Registration Certification

Subchapter E, Delayed Registration

Notice of the review of this chapter was published in the November 25, 2022, issue of the *Texas Register* (47 TexReg 7931). HHSC received one comment concerning this chapter.

One individual commented to propose a change to Chapter 181, Vital Statistics by repealing §181.24, relating to Abused, Misused, or Flagged Records, specifically referencing the 10-certificate limit on birth records.

The department has considered and reviewed the suggested change; however, the department views the reasons for originally adopting Texas Administrative Code §181.24(a)(1) to still exist. The department has addressed this same concern when the rule was originally adopted and limited the amount of birth and death records to be issued. It was found agreeable to limit only the number of birth records issued to be 10. As this rule is currently implemented, a birth record that has been requested 10 or more times may still be obtained by the registrant on a case-by-case basis after review by the department. This is to ensure the integrity of the record and protect from fraudulent activity.

HHSC has reviewed Chapter 181 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 181. Any appropriate amendments to Chapter 181 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 25 TAC Chapter 181 as required by the Government Code, §2001.039.

TRD-202301084

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: March 15, 2023

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: 22 TAC §104.2(e)(22)

Other entities approved by the Board per 22 TAC §104.2:

~~[A.] [Dental Quality Assurance;]~~

~~A. [B.] Texas School of Sleep Medicine and Technology;~~

~~[C.] [Dentist Secure Labs;]~~

~~B. [D.] Boyd W. Shephard, D.D.S., J.D; [and]~~

~~C. [E.] Dental Risk Solutions, LLC; and~~

~~D. American Association of Dental Boards –
Accredited Continuing Education Program (AADB-
ACE)~~

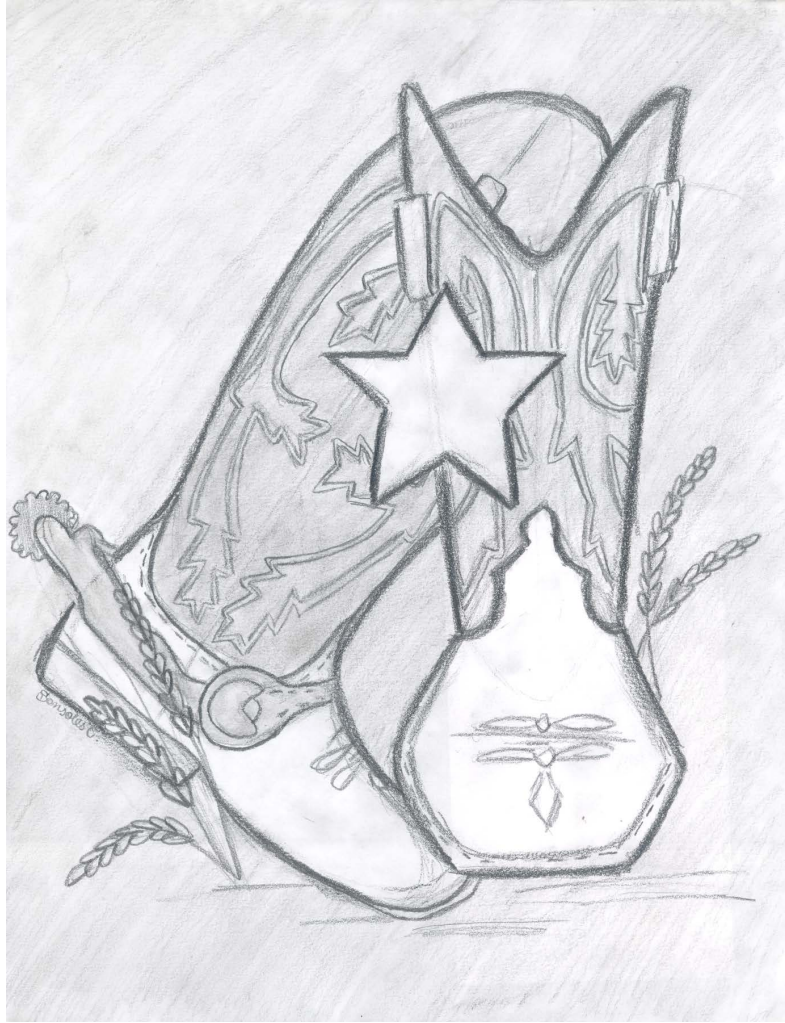
Figure: 22 TAC §681.205

<u>Rule</u>	<u>Subsection</u>	<u>Action</u>
§681.41(a)		L5
	(1)-(3)	L5
§681.41(b)		L5
§681.41(c)		L5
§681.41(d)		L5
<u>§681.35(a)</u> §681.41(e)		L4
	(1)-(8)	L4
<u>§681.35(b)</u> §681.41(f)		L4
<u>§681.41(e)</u> §681.41(g)		L5
<u>§681.37(b)</u> §681.41(h)		L3
<u>§681.37(c)</u> §681.41(i)		L3
<u>§681.38(a)</u> §681.41(j)		L4
<u>§681.38(b)</u> §681.41(k)		L4
<u>§681.38(c)</u> §681.41(l)		L4
<u>§681.38(d)</u> §681.41(m)		L4
	(2)	L4
	(3)	L1
	(5)-(6)	L5
	(7)	L4
<u>§681.38(e)</u> §681.41(n)		L5
<u>§681.41(g)</u> §681.41(p)		L5
<u>§681.36(a)</u> §681.41(q)		L5
	(1)	L4
	(2)-(7)	L5
<u>§681.36(b)</u> §681.41(r)		L5

§681.37(a) §681.41(t)	(1)-(3)	L5
	(4)-(5)	L4
§681.41(u)		L4
§681.35(c) §681.41(v)		L5
§681.35(d)		<u>L4</u>
§681.38(f) §681.41(w)		L4
§681.38(g) §681.41(x)		L5
§681.41(h) §681.41(y)		L4
§681.41(i) §681.41(z)		L4
§681.41(j) §681.41(aa)		L1
§681.41(l) §681.41(cc)		L1
§681.42(b)	(1)-(3)	L1
§681.42(c)		L1
§681.42(f)	(1)-(2)	L5
§681.43(a)		L5
§681.43(b)		L5
§681.43(c)		L4
§681.43(d)		L5
§681.43(e)		L5
§681.44		L3
§681.45(b)		L4
§681.45(c)		L4
§681.45(d)	(1)-(5)	L4
§681.46(b)		L5
§681.47(b)		L5
§681.49(a)		L5
§681.49(d)		L5
§681.49(e)		L5
§681.49(g)		L5
§681.49(h)		L5
§681.49(i)		L5
§681.50(a)		L5
§681.50(b)		L5

§681.50(c)		L5
§681.50(d)		L5
§681.51(b)	(3)	L4
§681.52(d)		L4
§681.52(e)		L5
§681.52(i)		L5
§681.52(j)		L5
§681.52(k)		L5
§681.52(l)		L5
§681.52(m)		L5
§681.52(n)		L5
§681.52(o)		L5
§681.52(p)	(1)-(5)	L5
§681.52(q)		L5
§681.52(s)		L5
§681.52(u)		L5
	(1)-(2)	L5
§681.52(v)		L5
§681.52(w)		L5
§681.52(x)		L5
	(1)-(5)	L5
§681.52(y)		L5
§681.52(z)		L5
§681.52(aa)		L5
§681.52(bb)		L5
§681.52(dd)		L5
§681.52(ff)		L5
§681.53(a)		L5
§681.53(c)		L5
§681.53(d)		L5
§681.53(e)		L5
§681.53(f)		L4
§681.53(g)		L3
§681.53(h)		L5
	(1)-(2)	L4
§681.53(i)		L4
§681.91(d)		L1
§681.93(a)	(1)(A)-(F)	L5

	(2)	L5
§681.93(c)		L5
	(1)-(2)	L5
§681.93(d)		L5
§681.93(e)		L5
§681.93(f)	(1)-(2)	L5
§681.93(h)	(2)	L4



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.

Alamo Area Metropolitan Planning Organization

RFP - Carpool Matching Service and Data Gathering

The Alamo Area Metropolitan Planning Organization (AAMPO) is seeking proposals from qualified firms to provide an online, real time carpool matching service and a viable and accurate method of gathering data on vehicle miles saved and emissions reductions achieved through carpooling and alternative transportation modes (non-single occupancy vehicles) related to the Alamo Commutes program and its members activity.

A copy of the Request for Proposals (RFP) may be obtained by downloading the RFP and attachments from AAMPO's website at www.alamoareampo.org or calling Sonia Jimenez, Deputy Director, at (210) 230-6904. Funding for this program, in the amount of \$65,000 annually, is contingent upon the availability of Federal transportation planning funds. Proposals will be accepted as one electronic document (PDF), less than 8 MB emailed to jimenez@alamoareampo.org. All proposals are due by 12:00 p.m. (noon, CDT), Friday, April 21, 2023.

TRD-202301122

Sonia Jimenez

Deputy Director

Alamo Area Metropolitan Planning Organization

Filed: March 21, 2023

Coastal Bend Workforce Development Board

Request for Proposal for Management and Operation of Career Center System (Including Youth Services) RFP No. 23-05

The Coastal Bend Workforce Development Board, dba Workforce Solutions Coastal Bend (WFSCB) is soliciting responses from qualified individuals or firms for the Management and Operation of the Career Center System (Including Youth Services) for Fiscal Year 2023-24. The contract may be renewed for three (3) additional one-year periods beyond the original acceptance award for a total not to exceed four (4) years.

WFSCB serves the eleven (11) county Coastal Bend Region consisting of the following counties: Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces, Refugio, and San Patricio. The Workforce Services Delivery System operates one-stop centers in the Cities of Alice, Beeville, Corpus Christi, Kingsville, and Sinton. WFSCB also operates satellite offices in the Cities of Falfurrias and Rockport. Services provided include general workforce information and referral; customer, employer, and job seeker services; customer intake, program eligibility and assessment; case management; enrollment into education and training programs; job placement; career counseling; support services; follow-up and retention services as funded by the Workforce Innovation and Opportunity Act (WIOA) Youth, Adult, and Dislocated Worker, Temporary Assistance to Needy Families (TANF)/Choices, Supplemental Nutrition Assistance Program (SNAP), Employment and Training, and Wagner-Peyser.

The RFP will be available on Monday, April 3, 2023, at 2:00 p.m. Central Time and can be accessed on our website

at: <https://www.workforcesolutionscb.org/about-us/procurement-opportunities/> or by contacting Esther Velazquez at (361) 885-3013 or esther.velazquez@workforcesolutionscb.org.

A Pre-Proposal Conference will be held on Monday, April 10, 2023, at 10:00 a.m. Central Time in the Main Conference Room at WF-SCB's Administrative Offices located at 400 Mann Street, Suite 800, Corpus Christi, Texas 78401. The purpose of the meeting is to review the RFP requirements and answer any questions related to the RFP. While this meeting is not mandatory, attendance is strongly recommended. Parties unable to attend in person may participate virtually from a computer, tablet, or smart phone via Zoom:

Join Zoom Meeting

<https://us02web.zoom.us/j/87570695931?pwd=ZGw5ZkZkQzQlVlSF-BmRmZvdTIHeUIRQT09>

U.S. Toll-Free: (888) 475-4499

Meeting ID: 875 7069 5931

Passcode: 576836

The RFP process consists of the submission of an Application and a Proposal. **Applications are due on Monday, May 22, 2023, at 4:00 p.m. Central Time and Proposals are due on Monday, June 26, 2023, at 4:00 p.m. Central Time.** Responses should be submitted via email to esther.velazquez@workforcesolutionscb.org or may be hand delivered or mailed to: Workforce Solutions of the Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: (800) 735-2989 (TDD) and (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

TRD-202301134

Esther Velazquez

Contract and Procurement Specialist

Coastal Bend Workforce Development Board

Filed: March 21, 2023

Comptroller of Public Accounts

Notice of Eligibility of Appraised Value

In compliance with Property Tax Code, §6.425(g), the Comptroller of Public Accounts has determined that a property's minimum appraised value for the 2023 tax year, as determined by the local appraisal district, must be \$57,216,456 to be eligible for a protest hearing in front of a local appraisal review board special panel for that tax year.

Inquiries may be submitted to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov.

TRD-202301131

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Filed: March 21, 2023

Concho Valley Workforce Development Board

Request for Quotes (RFQ) - Real Estate Broker

Concho Valley Workforce Development Board is soliciting proposals for: **Real Estate Broker Services**. The bids to be considered must be received by the Board according to the deadlines listed below.

Proposal Release Date: March 20, 2023

Proposal Due Date April 14, 2023, No Later Than 4:00 P.M. (CDT)

Please submit responses to Concho Valley Workforce Development Board to: Please do not reply all to this email.

Attention: Executive Assistant, Leigh Heath

via email at lheath@cvworkforce.org or

via mail 36 E. Twohig, Ste 805 San Angelo, Texas 76903

Real Estate Broker Services RFQ can be found here:

<https://cvworkforce.org/Bids.aspx?BidID=20>

TRD-202301117

Leigh Heath

HR Manager Executive Assistant

Concho Valley Workforce Development Board

Filed: March 20, 2023

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/27/23 - 04/02/23 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/27/23 - 04/02/23 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 04/01/23 - 04/30/23 is 7.75% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 04/01/23 - 04/30/23 is 7.75% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

TRD-202301135

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: March 21, 2023

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 **May 1, 2023**. 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 **May 1, 2023**. 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: ANDERSON WATER COMPANY, INCORPORATED; DOCKET NUMBER: 2022-1198-UTL-E; IDENTIFIER: RN101219426; LOCATION: Roans Prairie, Grimes County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$510; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 881-6991; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Aqua Texas, Incorporated; DOCKET NUMBER: 2021-1119-MWD-E; IDENTIFIER: RN102094240; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0012822001, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with permitted effluent limitations; PENALTY: \$45,500; ENFORCEMENT COORDINATOR: Laura Draper, (254) 761-3012; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Ball Metal Beverage Container Corporation; DOCKET NUMBER: 2021-0474-AIR-E; IDENTIFIER: RN100225440; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: beverage can manufacturing plant; RULES VIOLATED:

30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O3457, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Numbers 146824 and N130M1, Special Conditions Number 1, FOP Number O3457, GTC and STC Number 8, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$7,750; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: BASF Corporation; DOCKET NUMBER: 2021-1470-AIR-E; IDENTIFIER: RN101619690; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §101.201(c) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event; and 30 TAC §116.115(c), New Source Review Permit Number 9329A, Special Conditions Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$5,814; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Boling Municipal Water District; DOCKET NUMBER: 2021-1554-MWD-E; IDENTIFIER: RN102806056; LOCATION: Boling, Wharton County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (17) and §319.7(d), and Texas Pollutant Discharge Elimination System Permit Number WQ0010843001, Monitoring and Reporting Requirements Number 1, by failing to timely submit monitoring results at the intervals specified in the permit; PENALTY: \$800; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: City of Redwater; DOCKET NUMBER: 2022-1213-UTL-E; IDENTIFIER: RN101387421; LOCATION: Maud, Bowie County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$1,020; ENFORCEMENT COORDINATOR: Claudia Bartley, (512) 239-1116; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: K2C-Austin, LLC; DOCKET NUMBER: 2021-1327-WQ-E; IDENTIFIER: RN111294971; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: commercial nursery; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.121, by failing to obtain authorization prior to diverting, impounding, storing, taking, or using state water; PENALTY: \$1,125; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-0184; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: KNOB HILL WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-1336-UTL-E; IDENTIFIER: RN101456960; LOCATION: Mansfield, Tarrant County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations;

PENALTY: \$665; ENFORCEMENT COORDINATOR: Samantha Duncan, (817) 588-5805; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Republic Plastics, LTD.; DOCKET NUMBER: 2022-0733-AIR-E; IDENTIFIER: RN100851211; LOCATION: McQueeney, Guadalupe County; TYPE OF FACILITY: polystyrene foam manufacturing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(C), Federal Operating Permit Number O2680, General Terms and Conditions, and Texas Health and Safety Code, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(10) COMPANY: Targa Midstream Services LLC; DOCKET NUMBER: 2021-0412-AIR-E; IDENTIFIER: RN102551785; LOCATION: Crane, Crane County; TYPE OF FACILITY: natural gas compressor station; RULES VIOLATED: 30 TAC §101.201(c) and §122.143(4), Federal Operating Permit (FOP) Number O3156, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event; and 30 TAC §116.115(c) and §116.615(2), Standard Permit Registration Number 143741, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Special Conditions Number (a)(4), FOP Number O3156, GTC and STC Number 7, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$6,975; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(11) COMPANY: Third Coast Services LLC; DOCKET NUMBER: 2022-1106-PWS-E; IDENTIFIER: RN110104429; LOCATION: Magnolia, Montgomery County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(e)(4)(A), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher groundwater license issued by the Executive Director; PENALTY: \$979; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 239-2521; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: Thomas K. Rawls dba Doucette Water System and Danasa Rawls dba Doucette Water System; DOCKET NUMBER: 2022-1395-UTL-E; IDENTIFIER: RN101245405; LOCATION: Colmesneil, Tyler County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$500; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(13) COMPANY: Virginia M. Cole dba Frost Mobile Home Park; DOCKET NUMBER: 2022-1385-UTL-E; IDENTIFIER: RN101177889; LOCATION: Bay City, Matagorda County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$600; ENFORCEMENT COORDINATOR: Miles

Wehner, (512) 239-2813; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: Woodrow-Osceola Water Supply Corporation; DOCKET NUMBER: 2022-1513-UTL-E; IDENTIFIER: RN101207165; LOCATION: Itasca, Hill County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Samantha Duncan, (817) 588-5805; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202301118

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 21, 2023



Enforcement Orders

An agreed order was adopted regarding City of Kendleton, Docket No. 2021-1147-MWD-E on March 21, 2023, assessing \$2,600 in administrative penalties with \$520 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Water Control and Improvement District 89, Docket No. 2021-1627-PWS-E on March 21, 2023, assessing \$526 in administrative penalties with \$105 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Development, Inc., Docket No. 2022-0420-PWS-E on March 21, 2023, assessing \$3,000 in administrative penalties with \$600 deferred. Information concerning any aspect of this order may be obtained by contacting Ecko Beggs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Fritch, Docket No. 2022-0830-PWS-E on March 21, 2023, assessing \$7,065 in administrative penalties with \$1,413 deferred. Information concerning any aspect of this order may be obtained by contacting Ecko Beggs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sajju Investments, LLC dba Bandera Shell, Docket No. 2022-0956-PST-E on March 21, 2023, assessing \$6,369 in administrative penalties with \$1,273 deferred. Information concerning any aspect of this order may be obtained by contacting Janet Rivera, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Staff Water Supply Corporation, Docket No. 2022-1164-UTL-E on March 21, 2023, assessing \$625 in administrative penalties with \$125 deferred. Information concerning any aspect of this order may be obtained by contacting Ecko Beggs, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2022-1221-UTL-E on March 21, 2023, assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Montalba Water Supply Corporation, Docket No. 2022-1260-UTL-E on March 21, 2023, assessing \$510 in administrative penalties with \$102 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Systems, Inc., Docket No. 2022-1319-UTL-E on March 21, 2023, assessing \$1,020 in administrative penalties with \$204 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Systems, Inc., Docket No. 2022-1321-UTL-E on March 21, 2023, assessing \$1,240 in administrative penalties with \$248 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Systems, Inc., Docket No. 2022-1322-UTL-E on March 21, 2023, assessing \$1,020 in administrative penalties with \$204 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Halepaska Property Management, LLC, Docket No. 2022-1334-UTL-E on March 21, 2023, assessing \$550 in administrative penalties with \$110 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Howard C. Bigham, Jr. dba Key Mobile Home Park, Docket No. 2022-1335-UTL-E on March 21, 2023, assessing \$750 in administrative penalties with \$150 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PINE RIDGE WATER SUPPLY CORPORATION, Docket No. 2022-1440-UTL-E on March 21, 2023, assessing \$510 in administrative penalties with \$102 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202301143

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 22, 2023



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 171763

APPLICATION. JCK Batch Plant, LLC, P.O. Box 264, Fate, Texas 75132-0264 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 171763 to authorize the operation of a concrete batch plant. The facility is proposed to be located at the following driving directions: From the intersection of Lakeside Drive and US Highway 175, go north on US Highway 175 for approximately 0.38 miles. Site entrance will be on the right, Mabank, Kaufman County, Texas 75143. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.16288,32.398756&level=13>. This application was submitted to the TCEQ on February 14, 2023. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on March 1, 2023.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Tuesday, April 25, 2023, at 6 p.m.

Quality Suites Near Cedar Creek Lake

501 North Farm to Market Road 90

Mabank, Texas 75147

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

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

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Drive, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from JCK Batch Plant, LLC, P.O. Box 264, Fate, Texas 75132-0264, or by calling Mr. Josh Butler, Principal Consultant, Elm Creek Environmental, LLC at (469) 946-8195.

Notice Issuance Date: March 20, 2023

TRD-202301142

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 22, 2023



Notice of Correction to Agreed Order Number 5

In the October 21, 2022, issue of the *Texas Register* (47 TexReg 7096), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 5, for Energy Transfer Marketing and Terminals L.P. fka Sunoco Partners Marketing and Terminals L.P.; Docket Number 2021-1122-IWD-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$29,400."

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

TRD-202301119

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 21, 2023



Notice of Correction to Agreed Order Number 5

In the November 26, 2021, issue of the *Texas Register* (46 TexReg 8086), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 5, for Samuel Sanchez dba Presidio Stockyards; Docket Number 2020-1587-AGR-E. The error is as submitted by the commission.

The reference to rules violated: "30 TAC §205.4 and TWC, §26.040" should be corrected to read: "30 TAC §305.125(2) and §321.34(b)(1) and TWC, §26.121(a)(1)."

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

TRD-202301120

Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: March 21, 2023



Notice of Correction to Agreed Order Number 14

In the September 30, 2022, issue of the *Texas Register* (47 TexReg 6486), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 14, for Town of Anthony; Docket Number 2021-0855-MWD-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$114,062."
The reference to the Supplemental Environmental Project Offset Amount should be corrected to read: "\$114,062."

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

TRD-202301121
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: March 21, 2023



Notice of District Petition

Notice issued March 16, 2023

TCEQ Internal Control No. D-01182023-019; Aguilas Robles, LLC ("Petitioner") filed a petition for creation of Flying W Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner is the owner of a majority of the assessed value of the land to be included in the proposed District; (2) there is one lienholder on the property to be included in the proposed District, and they have consented to creation of the District and inclusion of the land in the District; (3) the proposed District will contain approximately 362.0 acres of land, located within Comal County, Texas; (4) proposed District is within the extraterritorial jurisdiction of the City of New Braunfels, Texas; and (5) although the City of New Braunfels (City) has not consented to creation of the District, the Petitioner has satisfied the requirements of Texas Water Code Sections 54.016(b) and (c) and Texas Local Government Code Section 42.042, and inclusion of the land in the proposed District is authorized under the provisions of Texas Water Code Section 54.016(c). The petition further states that the proposed District will (1) purchase, construct, acquire, extend, repair, and improve land, easements, works, improvements, facilities, plants, equipment and appliances necessary to: (2) provide a water supply for municipal uses, domestic uses and commercial purposes system, (3) collect, transport, process, dispose of and control all domestic, commercial or communal wastes whether fluid, solid or composite state, (4) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District and the payment of organization expenses, operation expenses during construction and interest during construction, (5) design, acquire, construct, finance, improve, operate and maintain macadamized, graveled or paved roads or improvements in aid of those roads, and (6) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law. According to the petition, a

preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners, from the information available at this time, that the cost of said project will be approximately \$166,418,665.

INFORMATION SECTION

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

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

TRD-202301141
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 22, 2023



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 **May 1, 2023**. 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 May 1, 2023**. 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: Javier Maldonado dba Auto Correct Paint and Body Shop; DOCKET NUMBER: 2022-0595-AIR-E; TCEQ ID NUMBER: RN110053725; LOCATION: 1392 Westward Ho, Navasota, Brazos County; TYPE OF FACILITY: auto body repair and refinishing facility; RULES VIOLATED: Texas Health and Safety Code, §382.016(b) and §382.085(b) and 30 TAC §116.115(b)(2)(E)(iii), by failing to produce records relating to the operating of air pollution equipment during an investigation; PENALTY: \$3,375; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202301124
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: March 21, 2023



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 **May 1, 2023**. 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 May 1, 2023**. 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: Atlas Oil Company; DOCKET NUMBER: 2021-0850-IHW-E; TCEQ ID NUMBER: RN110264009; LOCATION: 808 Bob White Road, Victoria, Victoria County; TYPE OF FACILITY: oil field service facility; RULES VIOLATED: TWC, §26.121(a) and 30 TAC §335.4(1), by causing, suffering, allowing, or permitting the unauthorized disposal of industrial hazardous waste into or adjacent to the waters in the state; PENALTY: \$63,750; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Corpus Christi Regional Office, 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

TRD-202301123
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: March 21, 2023



Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit

Notice issued on March 22, 2023

Proposed Permit No. 2414

Application. City of McLean, 220 North Main Street, McLean, Texas 79057, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit to authorize the construction and operation of a new Type I and Type IV Arid Exempt Municipal Solid Waste (MSW) landfill. The proposed landfill will receive 20 tons per day of both Type I and Type IV wastes. These wastes are classified as municipal solid waste and demolition/construction waste which include Class II and Class III industrial waste and special waste. The facility is proposed to be located 1.75 miles East of the city limits of McLean; North of Interstate Highway 40 frontage road, 1 mile West of County Line Road, 79057 in Gray County, Texas 79057. The TCEQ received this application on June 21, 2022. The permit application is available for viewing and copying at the City of McLean City Hall, 220 North Main Street, McLean, Texas 79057. The following 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: <https://arcg.is/rXWHD>. For exact location, refer to application.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if

the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period, and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this 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. 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 (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/ or in writing to the Texas

Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's 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 City of McLean at the address stated above or by calling Mr. Michael Story, Director of Public Works, at (806) 334-1186.

TRD-202301145
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 22, 2023



Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment

Notice issued on March 22, 2023

Proposed Permit No. 1983E

Application. Texas Regional Landfill Company, LP, 3 Waterway Square Place, Suite 550, The Woodlands, Texas 77380, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit amendment to authorize the expansion of the existing 99.9-acre waste disposal area by 22.0 acres, and to increase the maximum permitted final cover elevation from 820 ft-msl to 860 ft-msl. The existing permit boundary is not proposed to be changed by this application. The facility is located at 4144 Dick Price Road, Kennedale, Texas 76140 in Tarrant County, Texas. The TCEQ received this application on February 15, 2023. The permit application is available for viewing and copying at the Kennedale Public Library, 316 West 3rd Street, Kennedale, Texas 76060, and may be viewed online at <https://ftwweaverboos.com>. The following 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: <https://arcg.is/re5GH0>. For exact location, refer to application.

Alternative Language Notice/Aviso sobre lenguas alternativas Alternative language notice in Spanish is available at www.tceq.texas.gov/goto/mswapps. Hay disponible un aviso en otro idioma en español en www.tceq.texas.gov/goto/mswapps

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period, and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this 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. 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 (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/ or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name,

phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's 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 Texas Regional Landfill Company, LP at the address stated above or by calling Nevzat Turan, P.E. at (817) 735-9770.

TRD-202301144
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 22, 2023



Notice of Water Quality Application

The following notice was issued on March 15, 2023:

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

INFORMATION SECTION

Consideration of the application by Jonathan Carter Osinga and Laura Christine Osinga for a minor amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002959000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicants to change the property boundary by removing two land management units (LMU) #3 - 37 acres and LMU #4 - 51 acres, change the status of Well #3 from well buffer variance to plugged, and correct the location of Well #5. The design calculations for retention control structure #1 were also revised to remove LMU #3. The total land application area will decrease from 171 to 83 acres. The facility is located at 17298 South US Highway 281, Hico in Erath County, Texas.

TRD-202301140
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 22, 2023



Texas Health and Human Services Commission

Criminal History Requirements for Child Care Operations

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the charts are not included in the print version of the Texas Register. The charts are available in the on-line version of the March 31, 2023, issue of the Texas Register.)

26 TAC §745.661 (relating to What types of criminal convictions may affect a person's ability to be present at an operation?) states that HHSC will review the three criminal history requirements charts with information regarding specific crimes that may affect a person's ability to be present at a child care operation annually to determine whether any changes are needed. HHSC will then publish any changes in January as an "In Addition" document in the *Texas Register* and make them available on the Child Care Regulation public website. The three charts are entitled: (1) Licensed or Certified Child Care Operations: Crimi-

nal History Requirements; (2) Foster or Adoptive Placements: Criminal History Requirements; and (3) Registered Child Care Homes and Listed Family Homes: Criminal History Requirements.

On January 6, 2023, HHSC published the proposed changes to the charts in the *Texas Register* (48 TexReg 67) and made them available on the Child Care Regulation public website. The written public comment period for the *Texas Register* publication closed on February 5, 2023. HHSC received two comments from the Texas Alliance of Child and Family Services. One comment related to general background check matters unrelated to the charts and is outside the scope of the notice subject to comments. However, the other comment did relate to the charts. A summary of this comment and HHSC's response is as follows:

COMMENT: The commenter stated the changes from the current charts for foster parents and adoptive parents as well as staff and caregivers in regulated operations seem to have been well thought through. In particular, the changes related to modifying the impact of a felony conviction for prostitution to allow for a risk evaluation seems consistent with work around the state to cease penalizing survivors of human trafficking. Allowing for the possibility of such an evaluation may permit survivor voice and experience to be included in some of the very trafficking services programs that are working against trafficking. The commenter appreciates the change.

RESPONSE: HHSC appreciates the support for the changes, most notably in relation to Penal Code, §43.02, Prostitution, that is noted in all three charts.

HHSC adopted the three Criminal History Requirements charts without changes to the proposed text as published in the January 6, 2023, issue of the *Texas Register* (48 TexReg 67).

TRD-202301137

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 22, 2023



Public Notice - Texas State Plan Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective March 11, 2021.

The proposed amendment documents coverage of COVID-19 vaccines and administration of the vaccines for children under the age of 21.

The proposed amendment is estimated to result in an additional annual aggregate expenditure of \$23,542,073 in federal funds for federal fiscal year (FFY) 2021, \$76,641,752 in federal funds for FFY 2022, and \$58,879,671 in federal funds for FFY 2023.

Copy of Proposed Amendment - Interested parties may obtain additional information and/or a free copy of the proposed amendments by contacting Shae James, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of the proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of Texas Department of Aging and Disability Services).

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

U.S. mail

Texas Health and Human Services Commission

Attention: Medical Benefits Office of Policy

Mail Code H-310 P.O. Box 149030

Austin, Texas 78756

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Medical Benefits Office of Policy

John H. Winters Building

Mail Code H-310

701 W. 51st St.

Austin, Texas 78751

Fax

Attention: Office of Policy at (512) 730-7474

Email

MedicaidBenefitRequest@hhsc.state.tx.us

TRD-202301083

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 15, 2023



Texas Department of Insurance

Company Licensing

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

Application for Aetna Insurance Company of Connecticut, a foreign fire and/or casualty company, to change its name to Inverin Insurance Company. The home office is in Chicago, Illinois.

Application for United Security Health and Casualty Insurance Company, a foreign fire and/or casualty company, to change its name to United Security Insurance Company. The home office is in Bedford Park, Illinois.

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-202301138

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: March 22, 2023



Texas Lottery Commission

Scratch Ticket Game Number 2483 "TOPAZ 7s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2483 is "TOPAZ 7s". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2483 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2483.

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, 08, 09, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 7 SYMBOL, \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 and \$5,000.

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. 2483 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
28	TWET

29	TWNI
30	TRTY
7 SYMBOL	WIN\$
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THR\$
\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$5,000	FVTH

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 (2483), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2483-0000001-001.

H. Pack - A Pack of "TOPAZ 7s" Scratch Ticket Game contains 150 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Ticket 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. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning 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 - A Texas Lottery "TOPAZ 7s" Scratch Ticket Game No. 2483.

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 "TOPAZ 7s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fourteen (14) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "7" Play Symbol, the player wins the prize for that symbol instantly. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly fourteen (14) 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 fourteen (14) 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 fourteen (14) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fourteen (14) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. A Ticket can win up to six (6) times.

D. On winning and Non-Winning Tickets, the top cash prize of \$5,000 will appear at least once, except on Tickets winning six (6) times, with respect to other parameters, play action or prize structure.

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

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

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

H. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$1 and 01, \$2 and 02, \$3 and 03, \$4 and 04, \$5 and 05, \$10 and 10 and \$20 and 20).

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

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

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

L. The "7" (WIN\$) Play Symbol will win the PRIZE for that Play Symbol.

M. The "7" (WIN\$) Play Symbol will never appear more than once on a Ticket.

N. The "7" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

O. The "7" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. On Tickets winning with the "7" (WINS) Play Symbol, the YOUR NUMBERS Play Symbols will not match either of the WINNING NUMBERS Play Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "TOPAZ 7s" Scratch Ticket Game prize of \$1.00, \$2.00, \$3.00, \$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 "TOPAZ 7s" Scratch Ticket Game prize of \$5,000, 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 "TOPAZ 7s" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 "TOPAZ 7s" 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 "TOPAZ 7s" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "TOPAZ 7s" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 16,200,000 Scratch Tickets in the Scratch Ticket Game No. 2483. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2483 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	1,296,000	12.50
\$2.00	1,026,000	15.79
\$3.00	360,000	45.00
\$4.00	162,000	100.00
\$5.00	432,000	37.50
\$10.00	90,000	180.00
\$20.00	36,000	450.00
\$50.00	6,300	2,571.43
\$100	2,475	6,545.45
\$5,000	16	1,012,500.00

*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 4.75. 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. 2483 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 Game 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. 2483, 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-202301127

Bob Biard

General Counsel

Texas Lottery Commission

Filed: March 21, 2023



Scratch Ticket Game Number 2484 "EMERALD 7s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2484 is "EMERALD 7s". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2484 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2484.

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, 08, 09, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, STAR SYMBOL, CHERRY SYMBOL, HEART SYMBOL, MOON SYMBOL, CACTUS SYM-

BOL, LEMON SYMBOL, ELEPHANT SYMBOL, COIN SYMBOL, BANANA SYMBOL, CLUB SYMBOL, RAINBOW SYMBOL, MELON SYMBOL, WISHBONE SYMBOL, GRAPES SYMBOL, WALLET SYMBOL, SUN SYMBOL, GOLD BAR SYMBOL, HORSESHOE SYMBOL, ANCHOR SYMBOL, SAILBOAT SYMBOL, LIGHTNING BOLT SYMBOL, DICE SYMBOL, STACK OF CASH SYMBOL, SPADE SYMBOL, CROWN SYMBOL, PINEAPPLE SYMBOL, BELL SYMBOL, UMBRELLA SYMBOL, DAISY SYMBOL, 7 SYMBOL, 7 SYMBOL, 77 SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$200, \$500, \$1,000 and \$200,000.

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

Figure 1: GAME NO. 2484 - 1.2D

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

29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
48	FRET
49	FRNI
50	FFTY
STAR SYMBOL	STAR
CHERRY SYMBOL	CHERRY
HEART SYMBOL	HEART
MOON SYMBOL	MOON
CACTUS SYMBOL	CACTUS
LEMON SYMBOL	LEMON
ELEPHANT SYMBOL	ELEPHT
COIN SYMBOL	COIN

BANANA SYMBOL	BANANA
CLUB SYMBOL	CLUB
RAINBOW SYMBOL	RAINBW
MELON SYMBOL	MELON
WISHBONE SYMBOL	WSHBNE
GRAPES SYMBOL	GRAPES
WALLET SYMBOL	WALLET
SUN SYMBOL	SUN
GOLD BAR SYMBOL	BAR
HORSESHOE SYMBOL	HRSHOE
ANCHOR SYMBOL	ANCHOR
SAILBOAT SYMBOL	BOAT
LIGHTNING BOLT SYMBOL	BOLT
DICE SYMBOL	DICE
STACK OF CASH SYMBOL	CASH
SPADE SYMBOL	SPADE
CROWN SYMBOL	CROWN
PINEAPPLE SYMBOL	PNAPLE
BELL SYMBOL	BELL
UMBRELLA SYMBOL	UMBRLA
DAISY SYMBOL	DAISY
7 SYMBOL	SVN
7 SYMBOL	WIN\$
77 SYMBOL	DBL
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$

\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$200,000	200TH

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2484), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2484-0000001-001.

H. Pack - A Pack of "EMERALD 7s" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

I. Non-Winning 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 - A Texas Lottery "EMERALD 7s" Scratch Ticket Game No. 2484.

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 "EMERALD 7s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty (50) Play Symbols. GAME 1: If a player reveals 3 matching Play Symbols in the same SPIN, the player wins the PRIZE for that SPIN. If the player reveals 3 "7" Play Symbols in the same SPIN, the player wins DOUBLE the PRIZE for that SPIN. GAME 2: If the player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "7" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a

"77" 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 fifty (50) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly fifty (50) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

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

16. Each of the fifty (50) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty (50) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. GENERAL: A Ticket can win up to sixteen (16) times.

D. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$200,000 will appear at least once, with respect to other parameters, play action or prize structure.

E. GENERAL: If three (3) "7" (SVN) Play Symbols appear in the same SPIN in GAME 1, a "77" (DBL) Play Symbol will not appear in GAME 2.

F. GENERAL: If three (3) "7" (SVN) Play Symbols appear in the same SPIN in GAME 1, a single "7" (WIN\$) Play Symbol will not appear in GAME 2.

G. GAME 1: GAME 1 consists of eight (8) SPINs with three (3) Play Symbols and one (1) Prize Symbol per SPIN.

H. GAME 1: GAME 1 can win up to eight (8) times.

I. GAME 1: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

J. GAME 1: On all SPINs, non-winning Prize Symbols will be different.

K. GAME 1: There will never be three (3) matching Play Symbols in a vertical or diagonal line.

L. GAME 1: On Non-Winning Tickets, a Play Symbol will never appear more than two (2) times in a SPIN.

M. GAME 1: Consecutive Non-Winning Tickets within a Pack will not have matching SPINs. For example, if the first Ticket contains a "LEMON" Play Symbol, "BANANA" Play Symbol and a "STAR" Play Symbol in a SPIN, the next Ticket will not contain a "LEMON" Play Symbol, "BANANA" Play Symbol and a "STAR" Play Symbol in any SPIN in any order.

N. GAME 1: Non-Winning Tickets will not have matching SPINs. For example, if SPIN 1 is a "LEMON" Play Symbol, "BANANA" Play Symbol and a "STAR" Play Symbol, then SPIN 2 - SPIN 8 will not contain a "LEMON" Play Symbol, "BANANA" Play Symbol and a "STAR" Play Symbol in any order.

O. GAME 1: Winning SPINs will contain three (3) matching Play Symbols in a horizontal SPIN.

P. GAME 1: Three (3) matching "7" (SVN) Play Symbols in the same SPIN will win DOUBLE the PRIZE for that SPIN and will win as per the prize structure.

Q. GAME 1: There will never be more than one (1) set of three (3) matching "7" (SVN) Play Symbols in the same SPIN on a Ticket.

R. GAME 1: "7" (SVN) Play Symbols will only appear in a set of three (3) in the same SPIN i.e., a winning SPIN. A single "7" (SVN) Play Symbol will never appear.

S. GAME 2: GAME 2 can win up to eight (8) times.

T. GAME 2: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

U. GAME 2: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

V. GAME 2: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

W. GAME 2: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$5 and 05, \$10 and 10, \$15 and 15, \$20 and 20 and \$50 and 50).

X. GAME 2: On all Tickets, a Prize Symbol will not appear more than one (1) time, except as required by the prize structure to create multiple wins.

Y. GAME 2: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

Z. GAME 2: Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

AA. GAME 2: The "7" (WIN\$) Play Symbol will win the PRIZE for that Play Symbol.

BB. GAME 2: The "7" (WIN\$) Play Symbol will never appear more than once on a Ticket.

CC. GAME 2: The "7" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

DD. GAME 2: The "7" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

EE. GAME 2: On Tickets winning with the "7" (WIN\$) Play Symbol, the YOUR NUMBERS Play Symbols will not match either of the WINNING NUMBERS Play Symbols.

FF. GAME 2: The "77" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

GG. GAME 2: The "77" (DBL) Play Symbol will win DOUBLE the PRIZE for that Play Symbol and will win as per the prize structure.

HH. GAME 2: The "77" (DBL) Play Symbol will never appear more than once on a Ticket.

II. GAME 2: The "77" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

JJ. GAME 2: The "7" (WIN\$) and "77" (DBL) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "EMERALD 7s" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "EMERALD 7s" Scratch Ticket Game prize of \$1,000 or \$200,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "EMERALD 7s" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 "EMERALD 7s" 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 "EMERALD 7s" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "EMERALD 7s" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 14,040,000 Scratch Tickets in the Scratch Ticket Game No. 2484. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2484 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	1,497,600	9.38
\$10.00	748,800	18.75
\$15.00	561,600	25.00
\$20.00	93,600	150.00
\$25.00	218,400	64.29
\$50.00	136,929	102.53
\$100	50,700	276.92
\$200	5,265	2,666.67
\$500	2,730	5,142.86
\$1,000	150	93,600.00
\$200,000	7	2,005,714.29

*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 4.23. 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. 2484 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 Game 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. 2484, 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-202301128
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 21, 2023



Scratch Ticket Game Number 2485 "RUBY 7s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2485 is "RUBY 7s". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2485 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2485.

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: \$10.00, \$20.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000, \$500,000, STAR SYMBOL, CHERRY SYMBOL, HEART SYMBOL, MOON SYMBOL, CACTUS SYMBOL, SUN SYMBOL, GOLD BAR SYMBOL, HORSESHOE SYMBOL, ANCHOR SYMBOL, SAILBOAT SYMBOL, 7 SYMBOL, 01, 02, 03, 04, 05, 06, 08, 09, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54 and 55.

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. 2485 - 1.2D

PLAY SYMBOL	CAPTION
\$10.00	TEN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$500,000	500TH
STAR SYMBOL	STAR
CHERRY SYMBOL	CHERRY
HEART SYMBOL	HEART
MOON SYMBOL	MOON
CACTUS SYMBOL	CACTUS
SUN SYMBOL	SUN
GOLD BAR SYMBOL	BAR
HORSESHOE SYMBOL	HRSHOE
ANCHOR SYMBOL	ANCHOR
SAILBOAT SYMBOL	BOAT
7 SYMBOL	TRP
01	ONE
02	TWO
03	THR
04	FOR

05	FIV
06	SIX
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV

36	TRSX
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV

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 (2485), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2485-0000001-001.

H. Pack - A Pack of "RUBY 7s" Scratch Ticket Game contains 050 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of

the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning 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 - A Texas Lottery "RUBY 7s" Scratch Ticket Game No. 2485.

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 "RUBY 7s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-seven (57) Play Symbols. GAME 1: If a player reveals 3 matching prize amounts, the player wins that amount. GAME

2: If a player reveals 3 matching prize amounts, the player wins that amount. GAME 3: If the player reveals 3 matching Play Symbols, the player wins \$20. GAME 4: If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "7" Play Symbol, the player wins TRIPLE the PRIZE for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly fifty-seven (57) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-seven (57) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the fifty-seven (57) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the fifty-seven (57) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. GENERAL: A Ticket can win up to twenty-one (21) times.

D. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$500,000 will each appear at least once, except on Tickets winning twenty-one (21) times and with respect to other parameters, play action or prize structure.

E. GAME 1: GAME 1 can win up to one (1) time.

F. GAME 1: Winning Tickets will contain three (3) matching Prize Symbols.

G. GAME 1: A Prize Symbol will not appear more than three (3) times.

H. GAME 1: There will never be more than one (1) set of three (3) matching Prize Symbols.

I. GAME 1: On Winning Tickets, all non-winning Prize Symbols will be different from winning Prize Symbols.

J. GAME 1: Non-Winning Tickets will never have more than two (2) matching Prize Symbols.

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

L. GAME 2: Winning Tickets will contain three (3) matching Prize Symbols.

M. GAME 2: A Prize Symbol will not appear more than three (3) times.

N. GAME 2: There will never be more than one (1) set of three (3) matching Prize Symbols.

O. GAME 2: On Winning Tickets, all non-winning Prize Symbols will be different from winning Prize Symbols.

P. GAME 2: Non-Winning Tickets will never have more than two (2) matching Prize Symbols.

Q. GAME 3: On Non-Winning Tickets, there will never be more than two (2) matching Play Symbols.

R. GAME 3: GAME 3 can win up to one (1) time.

S. GAME 3: Winning Tickets will contain three (3) matching Play Symbols in GAME 3 and will win \$20.

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

U. GAME 4: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

V. GAME 4: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

W. GAME 4: GAME 4 can win up to eighteen (18) times.

X. GAME 4: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$10 and 10, \$20 and 20, \$40 and 40 and \$50 and 50).

Y. GAME 4: On all Tickets, a Prize Symbol will not appear more than three (3) times, except as required by the prize structure to create multiple wins.

Z. GAME 4: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

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

BB. GAME 4: The "7" (TRP) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

CC. GAME 4: The "7" (TRP) Play Symbol will win TRIPLE the PRIZE for that Play Symbol and will win as per the prize structure.

DD. GAME 4: The "7" (TRP) Play Symbol will never appear more than once on a Ticket.

EE. GAME 4: The "7" (TRP) Play Symbol will never appear on a Non-Winning Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "RUBY 7s" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$40.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$40.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "RUBY 7s" Scratch Ticket Game prize of \$1,000, \$10,000 or \$500,000, 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 "RUBY 7s" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 "RUBY 7s" 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 "RUBY 7s" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "RUBY 7s" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 11,040,000 Scratch Tickets in the Scratch Ticket Game No. 2485. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2485 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	1,251,200	8.82
\$20.00	772,800	14.29
\$30.00	331,200	33.33
\$40.00	184,000	60.00
\$50.00	220,800	50.00
\$100	106,720	103.45
\$200	22,080	500.00
\$500	2,576	4,285.71
\$1,000	205	53,853.66
\$10,000	12	920,000.00
\$500,000	5	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 3.82. 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. 2485 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 Game 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. 2485, 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-202301129
Bob Biard
General Counsel
Texas Lottery Commission
Filed: March 21, 2023



Scratch Ticket Game Number 2486 "DIAMOND 7s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2486 is "DIAMOND 7s". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2486 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2486.

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

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

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: STAR SYMBOL, CHERRY SYMBOL, HEART SYMBOL, MOON SYMBOL, CACTUS SYMBOL, LEMON SYMBOL, ELEPHANT SYMBOL, COIN SYMBOL, BANANA SYMBOL, CLUB SYMBOL, RAINBOW SYMBOL, MELON SYMBOL, SUN SYMBOL, GOLD BAR SYMBOL, HORSESHOE SYMBOL, ANCHOR SYMBOL, SAIL BOAT SYMBOL, LIGHTNING BOLT SYMBOL, DICE SYMBOL, STACK OF CASH SYMBOL, SPADE SYMBOL, CROWN SYMBOL, PINEAPPLE SYMBOL, BELL SYMBOL, 7 SYMBOL, 77 SYMBOL, 01, 02, 03, 04, 05, 06, 08, 09, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, \$20.00, \$25.00, \$40.00, \$50.00, \$75.00, \$100, \$200, \$500, \$1,000, \$25,000 and \$1,000,000.

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

Figure 1: GAME NO. 2486 - 1.2D

PLAY SYMBOL	CAPTION
STAR SYMBOL	STAR
CHERRY SYMBOL	CHERRY
HEART SYMBOL	HEART
MOON SYMBOL	MOON
CACTUS SYMBOL	CACTUS
LEMON SYMBOL	LEMON
ELEPHANT SYMBOL	ELEPHT
COIN SYMBOL	COIN
BANANA SYMBOL	BANANA
CLUB SYMBOL	CLUB
RAINBOW SYMBOL	RAINBW
MELON SYMBOL	MELON
SUN SYMBOL	SUN
GOLD BAR SYMBOL	BAR
HORSESHOE SYMBOL	HRSHOE
ANCHOR SYMBOL	ANCHOR
SAILBOAT SYMBOL	BOAT
LIGHTNING BOLT SYMBOL	BOLT
DICE SYMBOL	DICE
STACK OF CASH SYMBOL	CASH
SPADE SYMBOL	SPADE
CROWN SYMBOL	CROWN
PINEAPPLE SYMBOL	PNAPLE
BELL SYMBOL	BELL
7 SYMBOL	WIN\$
77 SYMBOL	DBL
01	ONE
02	TWO
03	THR

04	FOR
05	FIV
06	SIX
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
38	TRET

39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
\$20.00	TWY\$
\$25.00	TWFV\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$75.00	SVFV\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$25,000	25TH
\$1,000,000	TPPZ

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

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven

(7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2486), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start

with 001 and end with 025 within each Pack. The format will be: 2486-0000001-001.

H. Pack - A Pack of "DIAMOND 7s" Scratch Ticket Game contains 025 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The front of Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning 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 - A Texas Lottery "DIAMOND 7s" Scratch Ticket Game No. 2486.

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 "DIAMOND 7s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy (70) Play Symbols. BONUS QUICK WIN: If a player reveals 2 matching Play Symbols in the same BONUS QUICK WIN, the player wins \$100! DIAMOND 7s PLAY AREA: If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "7" Play Symbol, the player wins the PRIZE for that symbol instantly. If the player reveals a "77" 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 seventy (70) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;

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

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

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

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy (70) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

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

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

16. Each of the seventy (70) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy (70) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. GENERAL: A Ticket can win up to thirty-two (32) times.

D. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$25,000 and \$1,000,000 will appear at least once, with respect to other parameters, play action or prize structure.

E. GENERAL: The "7" (WIN\$) and "77" (DBL) Play Symbols will never appear in either of the two (2) BONUS QUICK WIN play areas.

F. BONUS QUICK WIN: A Ticket can win up to one (1) time in each of the two (2) BONUS QUICK WIN play areas.

G. BONUS QUICK WIN: A BONUS QUICK WIN Play Symbol will not be used more than one (1) time per Ticket across both BONUS QUICK WIN play areas, unless used in a winning combination.

H. BONUS QUICK WIN: A winning BONUS QUICK WIN play area will contain two (2) matching Play Symbols and will win \$100.

I. BONUS QUICK WIN: Winning combinations across both BONUS QUICK WIN play areas will be different.

J. BONUS QUICK WIN: A non-winning BONUS QUICK WIN play area will have two (2) different Play Symbols.

K. DIAMOND 7s: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

L. DIAMOND 7s: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

M. DIAMOND 7s: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

N. DIAMOND 7s: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$20 and 20, \$25 and 25, \$40 and 40 and \$50 and 50).

O. DIAMOND 7s: On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

P. DIAMOND 7s: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

Q. DIAMOND 7s: Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

R. DIAMOND 7s: The "7" (WIN\$) Play Symbol will win the PRIZE for that Play Symbol.

S. DIAMOND 7s: The "7" (WIN\$) Play Symbol will never appear more than once on a Ticket.

T. DIAMOND 7s: The "7" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

U. DIAMOND 7s: The "7" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

V. DIAMOND 7s: On Tickets winning with the "7" (WIN\$) Play Symbol, the YOUR NUMBERS Play Symbols will not match any of the WINNING NUMBERS Play Symbols.

W. DIAMOND 7s: The "77" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

X. DIAMOND 7s: The "77" (DBL) Play Symbol will win DOUBLE the PRIZE for that Play Symbol and will win as per the prize structure.

Y. DIAMOND 7s: The "77" (DBL) Play Symbol will never appear more than once on a Ticket.

Z. DIAMOND 7s: The "77" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

AA. DIAMOND 7s: The "7" (WIN\$) and "77" (DBL) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "DIAMOND 7s" Scratch Ticket Game prize of \$20.00, \$40.00, \$50.00, \$75.00, \$100, \$200 or \$500, a claimant shall sign

the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00, \$75.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "DIAMOND 7s" Scratch Ticket Game prize of \$1,000, \$25,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "DIAMOND 7s" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

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 "DIAMOND 7s" 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 "DIAMOND 7s" 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 Game 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "DIAMOND 7s" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 Ticket Prizes. There will be approximately 6,480,000 Scratch Tickets in the Scratch Ticket Game No. 2486. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2486 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	829,440	7.81
\$40.00	362,880	17.86
\$50.00	259,200	25.00
\$75.00	103,680	62.50
\$100	241,056	26.88
\$200	46,656	138.89
\$500	8,370	774.19
\$1,000	700	9,257.14
\$25,000	30	216,000.00
\$1,000,000	4	1,620,000.00

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

**The overall odds of winning a prize are 1 in 3.50. 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. 2486 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 Game 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. 2486, 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-202301130
 Bob Baird
 General Counsel
 Texas Lottery Commission
 Filed: March 21, 2023



North Central Texas Council of Governments

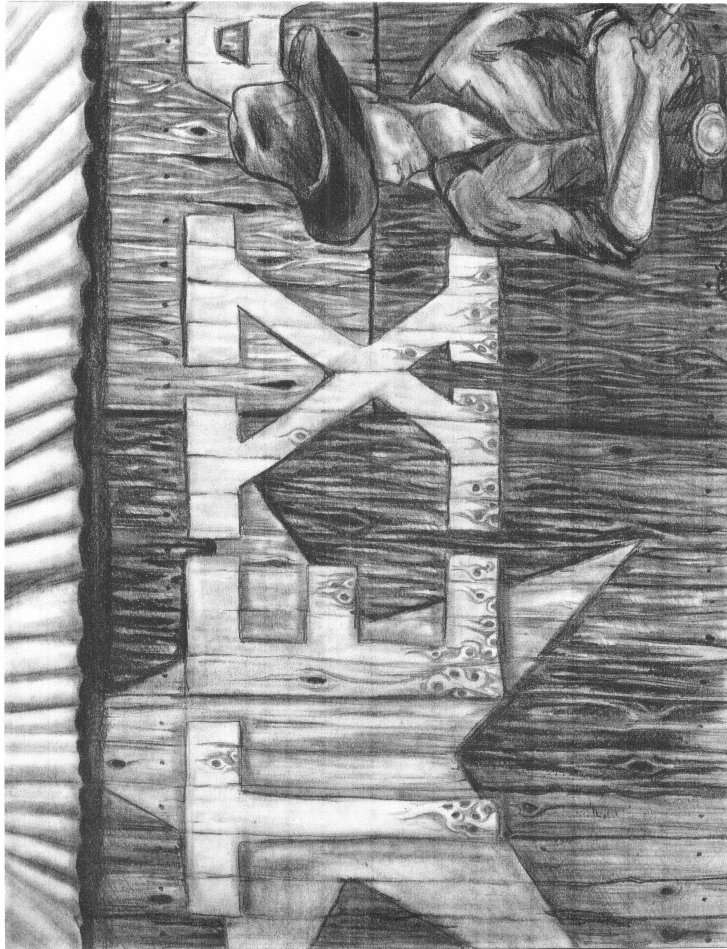
Notice of Contract Award - NCTCOG Traffic Incident Management Training Program (First Responder and Manager's Course and Executive Level Course)

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the January 20, 2023, issue of the *Texas Register* (48 TexReg 252). The selected entity will perform technical and professional work for the NCTCOG Traffic Incident Management Training Program (First Responder and Manager's Course and Executive Level Course).

The entity selected for this project is Charles R. Yancey, Fire Captain for City of Irving, Business Address: 845 W. Irving Blvd., Irving, Texas 75060. The amount of the contract is not to exceed \$10,000.

Issued in Arlington, Texas on March 22, 2023.

TRD-202301115
 R. Michael Eastland
 Executive Director
 North Central Texas Council of Governments
 Filed: March 20, 2023



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 48 (2023) is cited as follows: 48 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 “48 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 48 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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