

---

# TEXAS REGISTER

*Volume 48 Number 29*

*July 21, 2023*

*Pages 3947 - 4030*

---



# TEXAS REGISTER

a section of the  
Office of the Secretary of State  
P.O. Box 12887  
Austin, Texas 78711  
(512) 463-5561  
FAX (512) 463-5569

<https://www.sos.texas.gov>  
[register@sos.texas.gov](mailto:register@sos.texas.gov)

***Texas Register*, (ISSN 0362-4781, USPS 12-0090)**, is published weekly (52 times per year) for \$340.00 (\$502.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P. O. Box 1710, Latham, NY 12110.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Easton, MD and at additional mailing offices.

**POSTMASTER:** Send address changes to the *Texas Register*, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

***Secretary of State*** - Jane Nelson

***Director*** - Je T'aime Swindell

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

***Editors***

Leti Benavides

Jay Davidson

Brandy M. Hammack

Belinda Kirk

Laura Levack

Joy L. Morgan

Matthew Muir

Breanna Mutschler

# IN THIS ISSUE

## **ATTORNEY GENERAL**

Requests for Opinions.....	3951
Opinions.....	3951

## **EMERGENCY RULES**

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### LIMITED SERVICES RURAL HOSPITALS

26 TAC §600.1.....	3953
--------------------	------

## **PROPOSED RULES**

### **TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

#### MEDICAID HEALTH SERVICES

1 TAC §§354.1111, 354.1113, 354.1115.....	3955
---	------

#### REIMBURSEMENT RATES

1 TAC §355.105.....	3958
1 TAC §355.727.....	3964
1 TAC §355.9080.....	3965

### **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

#### TEXAS BOOTSTRAP LOAN PROGRAM RULE

10 TAC §§24.1, 24.2, 24.10.....	3967
---------------------------------	------

### **TEXAS EDUCATION AGENCY**

#### CHARTERS

19 TAC §100.1.....	3968
--------------------	------

### **TEXAS PARKS AND WILDLIFE DEPARTMENT**

#### EXECUTIVE

31 TAC §51.81.....	3970
31 TAC §51.615.....	3970

#### FISHERIES

31 TAC §57.901.....	3971
31 TAC §57.979.....	3973

#### PARKS

31 TAC §59.3.....	3974
-------------------	------

#### WILDLIFE

31 TAC §65.81, §65.82.....	3978
31 TAC §65.99.....	3984

## **WITHDRAWN RULES**

### **STATE BOARD FOR EDUCATOR CERTIFICATION**

#### STUDENT SERVICES CERTIFICATES

19 TAC §§239.40, 239.45, 239.55, 239.60, 239.65.....	3985
19 TAC §239.70.....	3985

19 TAC §§239.90 - 239.95.....	3985
19 TAC §§239.93 - 239.95.....	3985

## **ADOPTED RULES**

### **TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

#### REIMBURSEMENT RATES

1 TAC §355.8707.....	3987
----------------------	------

### **TEXAS EDUCATION AGENCY**

#### TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION

19 TAC §127.411.....	3989
19 TAC §127.633.....	3989
19 TAC §§127.744, 127.756, 127.757, 127.765, 127.769, 127.770.....	3989

### **TEXAS STATE BOARD OF PLUMBING EXAMINERS**

#### EXAMINATION AND REGISTRATION

22 TAC §363.9.....	3989
--------------------	------

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### LICENSING

26 TAC §745.43.....	3991
26 TAC §745.5001, §745.5003.....	3991
26 TAC §745.5051.....	3992
26 TAC §745.5101, §745.5103.....	3992
26 TAC §§745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161.....	3992
26 TAC §745.5201.....	3993
26 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417.....	3993
26 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 749.8449...3993	3993
26 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493.....	3993
26 TAC §§745.8581, 745.8583, 745.8585.....	3994

### **TEXAS FORENSIC SCIENCE COMMISSION**

#### DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

37 TAC §651.5.....	3995
37 TAC §651.203.....	3995
37 TAC §651.207, §651.211.....	3995

### **DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

#### LICENSING

40 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8419, 745.8421, 745.8423, 745.8425, 745.8427 .....	3996
40 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8451, 745.8453, 745.8455 .....	3996
40 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8495 .....	3996
40 TAC §§745.8511, 745.8513, 745.8515, 745.8517, 745.8519, 745.8521, 745.8523, 745.8525, 745.8527, 745.8529, 745.8531, 745.8533 .....	3997
40 TAC §§745.8551, 745.8553, 745.8555, 745.8557, 745.8559, 745.8561 .....	3997
40 TAC §§745.8581, 745.8583, 745.8585 .....	3997

**DENTON COUNTY TAX ASSESSOR-COLLECTOR**

**MOTOR VEHICLE TITLE SERVICES**

43 TAC §§430.1 - 430.16 .....	3997
-------------------------------	------

**RULE REVIEW**

**Proposed Rule Reviews**

Texas Department of Agriculture.....	3999
Texas Commission on the Arts .....	3999

**TABLES AND GRAPHICS**

.....	4001
-------	------

**IN ADDITION**

**Office of the Attorney General**

Request for Applications (RFA) for the Second Offering Sexual Assault Prevention and Crisis Services (SAPCS)-State Program.....	4005
---	------

**Comptroller of Public Accounts**

Notice of General Meeting of the Multistate Tax Commission.....	4006
---	------

**Office of Consumer Credit Commissioner**

Notice of Rate Ceilings.....	4006
------------------------------	------

**Texas Education Agency**

Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Subchapter D New Operators (RFA #701-24-101).....	4006
--	------

Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Texas Public Colleges or Universities and Texas Public Junior Colleges (RFA #701-24-102).....	4007
--	------

Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Subchapter D Experienced Operators (RFA #701-24-107).....	4009
--	------

**Texas Commission on Environmental Quality**

Agreed Orders.....	4010
Enforcement Orders.....	4012

Notice of a Public Meeting on an Application for a Water Use Permit Application No. 13524 .....	4013
---	------

Notice of an Application for a Temporary Water Use Permit Application No. 13885 .....	4013
---	------

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 173083.....	4014
--	------

Notice of Correction to Shutdown/Default Order Number 1.....	4015
--	------

Notice of District Petition.....	4015
----------------------------------	------

Notice of Opportunity to Comment on a Shutdown/Default Order of an Administrative Enforcement Action.....	4016
---	------

Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions .....	4016
---	------

Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions .....	4017
---	------

Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions .....	4017
--	------

Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions .....	4018
--	------

**General Land Office**

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program .....	4019
--	------

**Texas Health and Human Services Commission**

Public Notice - Amendment of the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) Waiver .....	4020
--	------

Public Notice - Texas State Plan for Medical Assistance Amendment .....	4021
---	------

**Texas Higher Education Coordinating Board**

Meeting of Negotiated Rulemaking Committee on Research Funds Implementation (HB 1595) .....	4022
---	------

Meeting of Negotiated Rulemaking Committee on Texas Educational Opportunity Grant.....	4022
--	------

**Texas Department of Insurance**

Company Licensing .....	4022
-------------------------	------

**Texas Lottery Commission**

Scratch Ticket Game Number 2501 "HOUSTON TEXANS" .....	4023
--	------

**Texas Parks and Wildlife Department**

Notice of Proposed Real Estate Transactions .....	4028
---	------

**Red River Authority of Texas**

Request for Statement of Qualifications for Engineering and Environmental Professional Services .....	4029
---	------

**Supreme Court of Texas**

Order Approving Revised Will Forms.....	4030
---	------

# 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-0001-JS

#### Requestor:

Ms. Gloria Meraz

Director and Librarian

Texas State Library & Archives Commission

Post Office Box 12927

Austin, Texas 78711-2927

Re: Scope of authority of the Texas State Library and Archives Commission to accept gifts under Government Code section 441.006(b)(2) (RQ-0001-JS)

#### Briefs requested by July 31, 2023

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202302486

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: July 11, 2023



## Opinions

### Opinion No. JS-0004

Mr. Thomas J. Gleeson

Executive Director

Public Utility Commission of Texas

Post Office Box 13326

Austin, Texas 78711

Re: Whether the Public Utility Commission has authority under Water Code section 12.013 to hear an appeal by a municipal utility of rates set by a water control and improvement district, or whether the Texas Commission on Environmental Quality has exclusive authority over such an appeal under Water Code subsection 51.305(d) (RQ-0478-KP)

#### SUMMARY

Water Code subsection 12.013(a) authorizes the Public Utility Commission to fix reasonable rates for the furnishing of raw or treated wa-

ter for any purpose under Water Code chapter 11 or 12. Water Code section 51.305 pertains to specific expenses a water control and improvement district may allocate to certain users. The two provisions do not conflict. Under the plain terms of subsection 51.305(d), when an authorized party disputes a water control and improvement district's allocation assessments and other payments necessary to cover the maintenance and operating expenses of its water delivery system, a petition filed with the Texas Commission on Environmental Quality is the sole remedy. Otherwise, the matter is before the Public Utility Commission.

As this office does not resolve factual questions in attorney general opinions, we cannot determine the nature of the underlying dispute and thus cannot answer your question about which entity may have exclusive jurisdiction to hear it.

#### Opinion No. JS-0005

The Honorable David A. Levy

Archer County Attorney

Post Office Box 1186

Archer City, Texas 76351

Re: Questions related to the use of a sheriff's commissary funds for a vehicle to transport inmates to medical appointments (RQ-0494-KP)

#### SUMMARY

While it is a determination for the sheriff of Archer County in the first instance, a court would likely conclude that the acquisition of a vehicle dedicated to safely transporting inmates to and from medical and mental health appointments qualifies as equipment, a program, a service, or an activity that provides for the well-being, health, safety and security of inmates and a jail facility and thus, is a permissible use of commissary funds under Local Government Code subsection 351.0415(c)(5).

Because of a sheriff's "exclusive control" of commissary funds under subsection 351.0415(b)(1) and ability to "fund" the items in subsection 351.0415(c)(5) of the Local Government Code, a court would likely conclude that a sheriff has authority to lease a vehicle with commissary funds without first seeking the approval of the commissioners court.

Whether a commissioners court may use money from the general fund to pay insurance and maintenance costs on a vehicle acquired with commissary funds depends on whether the expenditure is provided in the budget.

Local Government Code subsection 263.152(a)(1) applies to surplus property owned by a county. Whether a particular vehicle is owned by

Archer County is a fact question that cannot be resolved in the opinion process.

**Opinion No. JS-0006**

The Honorable Terry Canales

Chair, House Committee on Transportation

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a member of the Board of Trustees of the La Joya Independent School District may simultaneously serve as a member of the Board of Directors of the Hidalgo County Irrigation District No. 6 (RQ-0495-KP)

**S U M M A R Y**

The common-law doctrine of conflicting-loyalties incompatibility prohibits one person from simultaneously holding two offices that would

prevent the person from exercising independent and disinterested judgment. Because the La Joya Independent School District and the Hidalgo County Irrigation District No. 6 have taxation authority in overlapping territory, one individual may not simultaneously serve as a school board trustee and irrigation district board member. A court would likely conclude that in qualifying for the second incompatible office of trustee for the School District, the individual does not holdover under article XVI, subsection 17(a).

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-202302487

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: July 11, 2023



# EMERGENCY RULES

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

## TITLE 26. HEALTH AND HUMAN SERVICES PART 1. HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 600. LIMITED SERVICES RURAL HOSPITALS

#### 26 TAC §600.1

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 600, Limited Services Rural Hospitals, new §600.1, concerning an emergency rule to permit qualified rural hospitals to apply for licensure as a limited services rural hospital.

This emergency rule is proposed under and implements Texas Health and Safety Code Chapter 241, Subchapter K, which allows a qualified rural hospital that is designated as rural emergency hospital by the Centers for Medicare and Medicaid Services (CMS) to become licensed as a limited services rural hospital and remain open to treat patients.

As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

The purpose of the emergency rulemaking is to implement Senate Bill 1621, 86th Legislature, Regular Session, 2019, which the Legislature enacted to ensure individuals living in rural areas continue to have access to hospital care, in response to the closure of rural hospitals. HHSC accordingly finds that this threat to access to hospital care constitutes an imminent peril to the public health, safety, and welfare of the state that requires immediate adoption of this emergency rule for limited services rural hospitals.

To protect individuals living in rural areas and the public health, safety, and welfare of the state, HHSC is adopting this emergency rule to permit a qualified rural hospital to become licensed as a limited services rural hospital under Texas Health and Safety Code Chapter 241, Subchapter K.

#### BACKGROUND AND PURPOSE

Senate Bill 1621 added Texas Health and Safety Code Chapter 241, Subchapter K, which, in part, requires HHSC to adopt licensing standards for limited services rural hospitals if the United States Congress passes a bill creating a payment program specifically for limited services rural hospitals or similarly designated hospitals that becomes law. The Consolidated

Appropriations Act, 2021, became law on December 27, 2020, and required CMS to establish a federal rural emergency hospital designation. The CMS conditions of participation for rural emergency hospitals took effect January 1, 2023.

The requirements and flexibilities established in this section are applicable while this emergency rule is in effect pursuant to Texas Government Code §2001.034 (relating to Emergency Rulemaking) and Texas Government Code §531.0055 (relating to Executive Commissioner: General Responsibility for Health and Human Services System, respectively).

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §§241.302 and 241.303. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §241.302 authorizes the Executive Commissioner of HHSC to adopt rules governing licensing standards for limited services rural hospitals, and §241.303 authorizes the Executive Commissioner to establish and collect licensing fees for limited services rural hospitals.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §§241.302 and 241.303.

#### §600.1. Limited Services Rural Hospital.

(a) Based on Texas Health and Safety Code (HSC) Chapter 241, Subchapter K (relating to Limited Services Rural Hospital), as added by Senate Bill 1621, 86th Legislature, Regular Session, 2019, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish requirements for qualified rural hospitals to apply to HHSC for a limited services rural hospital (LSRH) license and forego any conflicting inpatient license and operational requirements, to protect public health and safety of rural communities until HHSC adopts standard rules for LSRH licensure in the Texas Administrative Code.

(b) To the extent this emergency rule conflicts with Texas Administrative Code Title 25 (25 TAC) Chapter 133 (relating to Hospital Licensing), this emergency rule controls.

(c) In this section, "qualified rural hospital" means a hospital that meets the requirements to be designated as a rural emergency hospital under the Code of Federal Regulations Part 42 (42 CFR) §485.502 (relating to Definitions), and §485.506 (relating to Designation and certification of REHs) that is currently licensed under HSC Chapter 241 (relating to Hospitals); and is:

(1) located in a rural area, as defined by United State Code Title 42 Section 1395ww(d)(2)(D); or

(2) designated by the Centers for Medicare and Medicaid Services as a critical access hospital, rural referral center, or sole community hospital.

(d) Notwithstanding the licensing and operational requirements in 25 TAC Chapter 133, a qualified rural hospital may apply to HHSC for an LSRH license using a form prescribed by HHSC as described on the HHSC website.

(e) The presurvey conference and architectural and compliance inspections under 25 TAC §133.22 (relating to Application and Issuance of Initial License) are not required for licensure under this emergency rule.

(f) If HHSC approves a hospital's LSRH application, HHSC will issue the hospital an LSRH license with the same expiration date as the hospital's current license and the hospital's existing license becomes void.

(g) An LSRH shall comply with the following:

(1) 42 CFR Part 485, Subpart E (relating to Conditions of Participation: Rural Emergency Hospitals (REHs));

(2) 25 TAC §133.44 (relating to Hospital Patient Transfer Policy), and

(3) 25 TAC §133.61 (relating to Hospital Patient Transfer Agreements).

(h) In addition to the conditions of participation (CoPs) at 42 CFR Part 485, Subpart E, the hospital shall comply with 25 TAC Chapter 133 to the extent it does not conflict with the CoPs.

(i) An LSRH licensed under this section shall comply with 25 TAC §133.23 (relating to Application and Issuance of Renewal License). The renewal licensure fee shall be the amount the hospital previously paid for its most recent hospital license.

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

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

Filed with the Office of the Secretary of State on July 10, 2023.

TRD-202302480

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: July 12, 2023

Expiration date: November 8, 2023

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





# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

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

## TITLE 1. ADMINISTRATION

### PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 354. MEDICAID HEALTH SERVICES

##### SUBCHAPTER A. PURCHASED HEALTH SERVICES

##### DIVISION 9. AMBULANCE SERVICES

###### 1 TAC §§354.1111, 354.1113, 354.1115

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §354.1111, concerning Definitions; §354.1113, concerning Additional Claim Information Requirements; and §354.1115, concerning Authorized Ambulance Services.

###### BACKGROUND AND PURPOSE

The purpose of the proposal is to implement legislation related to ambulance services as directed by Senate Bill 1, Article II, Rider 42, 87th Legislature, Regular Session, 2021. The proposed amendments implement emergency triage, treat, and transport (ET3) services to allow Medicaid-enrolled ambulance providers to address health care needs assessed as non-emergency, but medically necessary, by providing appropriate treatment in place at the scene; facilitating appropriate treatment in place via telemedicine or telehealth; and transporting a Medicaid recipient to an alternative non-hospital destination, such as a primary care physician office or an urgent care clinic. Rider 42 directs HHSC to implement an ET3 program for Texas Medicaid. The proposal allows ET3 services similar to those put in place with the Centers for Medicare & Medicaid Services' ET3 Pilot project. The proposed amendments also update and clarify language in the rules.

The proposed amendment to §354.1111 defines the term "emergency triage, treat, and transport (ET3) services" as emergency ground ambulance services that transport Medicaid recipients to alternative destination sites other than emergency departments (EDs), including primary care physician offices, urgent care clinics; providing appropriate treatment in place at the scene; or facilitating appropriate treatment in place via telemedicine or telehealth. The proposed amendment makes a change to the definition of "nonemergency transport" to clarify that it is appropriate when a Medicaid recipient's medical condition is such that the use of an ambulance is medically required and alternate means of transport are medically contraindicated. The proposed amendment also replaces the term "commission" with "HHSC."

This is based on an HHSC initiative to consistently define HHSC throughout rules.

The proposed amendment to §354.1113 adds claim documentation requirements to be reimbursed for ET3 services for transport to an alternative destination site, treatment in place at the scene, or treatment in place via telemedicine or telehealth, if applicable. The proposed amendment establishes that a prior authorization number must be obtained for nonemergency ambulance transports. The proposed amendment to §354.1113 also removes the requirement that the prior authorization number must be obtained before an ambulance is used, to be consistent with the authorization requirements in §354.1115 that implemented Texas Human Resources Code §32.024(t) in a previous rule amendment.

The proposed amendment to §354.1115 adds criteria for reimbursement of ET3 services when a Medicaid-enrolled ambulance provider responds to a call initiated by an emergency response system and determines the recipient's needs are non-emergent, but medically necessary, to be reimbursed for transport to an alternative destination, providing treatment in place, or facilitating treatment in place via telemedicine or telehealth.

###### FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, there will be an estimated reduction in cost to state government as a result of enforcing and administering the rules as proposed. There is an estimated reduction in costs due to fewer patients being transported to EDs.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated reduction in cost of \$13,131,826 in fiscal year (FY) 2023, \$11,545,501 in FY 2024, \$11,423,118 in FY 2025, \$11,302,034 in FY 2026, and \$11,182,232 in FY 2027.

The proposed rule estimates a reduction in costs due to fewer patients being transported to EDs, based on an analysis by the United States Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response (ASPR), which indicates that approximately 15 percent of Medicare patients transported to EDs by ambulance can be safely cared for in other settings if available in a community. Out of that 15 percent, 50 percent of patients would be transported to an appropriately staffed clinic, 25 percent of patients would be evaluated and treated by EMS without transport, and 25 percent may not have a physician available and would go to urgent care.

There could be an estimated additional cost to local government as a result of enforcing and administering the rules as proposed to cover costs to provide appropriate treatment in place

at the scene and/or facilitate appropriate treatment in place via telemedicine or telehealth. Participating ambulance providers could incur costs to provide ET3 services if they are required to alter their business practices, hire additional staff, and/or require staff training related to allowing ground emergency ambulance providers to transport Medicaid recipients to alternative destination sites other than EDs. However, the total costs to local participating ambulance providers cannot be estimated because HHSC lacks data to estimate any increase or reduction in costs.

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that the proposed rule is not expected to have an adverse economic impact on small businesses, micro-businesses, and rural communities required to comply with the rules as proposed. There is no requirement for publicly owned ambulance services or rural communities to alter business practices.

#### LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, the rule does not impose a cost on regulated persons, and the rule is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

#### PUBLIC BENEFIT AND COSTS

Stephanie Stephens, State Medicaid Director, has determined that for each year of the first five years the rules are in effect, Medicaid recipients will have the option to receive cost effective emergency ambulance services with treatment in place by a qualified health care practitioner enrolled as an ambulance provider or transportation to an alternative non-emergency destination when a recipient has low acuity complaints and symptoms. Receiving treatment in place or transport to alternative destinations will also avert long waits in EDs and unnecessary hospitalizations.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to

persons who are required to comply with the proposed rule because there are no additional fees or costs imposed on those required to comply.

#### TAKINGS IMPACT ASSESSMENT

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

#### PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 23R002" in the subject line.

#### STATUTORY AUTHORITY

The amendments are 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 Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §531.0055 and Texas Human Resources Code §32.021.

#### §354.1111. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Ambulance provider--A provider of ambulance services who:
  - (A) is enrolled as an ambulance provider in the Texas Medicaid Program to provide ambulance services for Medicaid recipients;
  - (B) is licensed with the Department of State Health Services, Emergency Medical Services Division;
  - (C) is enrolled in Medicare;
  - (D) agrees to accept assignment on all Medicare/Medicaid claims; and
  - (E) agrees to provide these services according to state and local laws, regulations, and guidelines governing ambulance services.

(2) Appropriate facility--The nearest medical facility that is equipped to provide medical care for the illness or injury of the Medicaid recipient involved. It is the institution, equipment, personnel, and capability to provide the services necessary to support the required medical care that determine whether a facility is appropriate.

~~{(3) Commission--Health and Human Services Commission.}~~

(3) ~~[(4)]~~ Designee--The contractor responsible for reimbursing Medicaid providers of ambulance transport services for Medicaid recipients.

(4) ~~[(5)]~~ Emergency medical condition--A medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances, or symptoms of substance abuse) such that a prudent layperson with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

(A) placing the recipient's health (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(B) serious impairment to bodily functions; or

(C) serious dysfunction of any bodily organ or part.

(5) Emergency triage, treat and transport (ET3) services--ET3 services are emergency ground ambulance services and include:

(A) transporting Medicaid recipients to alternative destination sites other than an emergency department, including primary care physician offices and urgent care clinics;

(B) providing appropriate treatment in place at the scene; or

(C) facilitating appropriate treatment in place via telemedicine or telehealth.

(6) Emergency transport--Transport provided by an [a] ambulance provider for a Medicaid recipient whose condition meets the definition of an emergency medical condition. Facility-to-facility transports are appropriate as emergencies if the required treatment for the emergency medical condition is not available at the first facility.

(7) HHSC--The Texas Health and Human Services Commission or its designee.

(8) Medically necessary--When the condition of the Medicaid recipient meets the definition of emergency medical condition or meets the requirements for nonemergency [~~non-emergency~~] transport.

(9) ~~[(7)]~~ Nonemergency [~~Non-emergency~~] transport--Transport provided by an [a] ambulance provider for a Medicaid recipient to or from a scheduled medical appointment, to or from another licensed facility for treatment, or to the recipient's home after discharge from a hospital. Nonemergency [~~Non-emergency~~] transport is appropriate when the Medicaid recipient's medical condition is such that the use of an ambulance is medically required [~~the only appropriate means of transport~~], e.g., bed confinement, and alternate means of transport are medically contraindicated.

*§354.1113. Additional Claim Information Requirements.*

(a) In addition to the general requirements in §354.1001 of this subchapter [title] (relating to Claim Information Requirements), the following information is required on claims for ambulance services.:[;]

(1) Documentation of medical necessity in accordance with codes representing medical conditions as designated by HHSC [~~the Commission~~]:

(A) the [~~The~~] transport documentation must substantiate the level of service and mode of transport provided;

(B) reimbursement [~~Reimbursement~~] is recouped when the documentation does not substantiate that the level of service and mode of transport provided accurately matches the level of service and mode of transport claimed; and

(C) the [~~The~~] level of service and mode of transport provided must be medically necessary based on the clinical situation and needs of the recipient.:[;]

(2) Type of ambulance service provided (e.g. air, ground, or boat).:[;]

(3) Origin and destination of each separate trip.:[;]

(4) Charges for ambulance services, including base rates and mileage rates.:[;and]

(5) Documentation to support emergency triage, treat and transport (ET3) services for transport to an alternative destination site, for treatment in place at the scene, or treatment in place via telemedicine or telehealth, if applicable.

(6) ~~[(5)]~~ A prior [~~Prior~~] authorization number (PAN) must be obtained for nonemergency transport[; if required].

(b) Prior authorization is required when transporting a recipient. A PAN must be obtained when an ambulance is used to transport a recipient for: [~~Obtaining a prior authorization number.~~]

(1) [~~A PAN for~~] nonemergency [~~non-emergency~~] transports; and [~~must be obtained before an ambulance is used to transport a recipient.~~]

(2) [~~A PAN for~~] out-of-state ambulance transports [~~must be obtained before an ambulance is used to transport a recipient.~~]

(c) Supporting documentation is required to be maintained by both the ambulance provider and the requesting provider including a physician, nursing facility, health care provider or other responsible party. Supporting documentation is to be made available if requested by the Office of Inspector General (OIG) or HHSC [~~the Commission or its designee~~].

(1) An ambulance provider is required to maintain documentation that represents the recipient's medical conditions and other clinical information to substantiate medical necessity, [~~and~~] the level of service, and mode of transportation requested. This supporting documentation is limited to documents developed by the ambulance provider.

(2) Physicians, nursing facilities, health care providers or other responsible parties are required to maintain physician orders related to requests for prior authorization of nonemergency [~~non-emergency~~] and out-of-state ambulance services. These providers must also maintain documentation of medical necessity for the ambulance transport.

*§354.1115. Authorized Ambulance Services.*

In addition to the requirements stated in this section, a provider must comply with §354.1001 of this subchapter [title] (relating to Claim Information Requirements), and §354.1113 of this division [title] (relating to Additional Claim Information Requirements).

(1) Emergency ambulance transportation. [~~Ambulance Transportation.~~] HHSC [~~The Commission or its designee~~] will re-

imburse a Medicaid-enrolled ambulance provider for the emergency transport of a Medicaid recipient with an emergency medical condition in accordance with the following criteria.[-]

(A) Transport must be to an appropriate facility. If the transport is made to a facility other than an appropriate facility, payment is limited to the amount that would be payable to an appropriate facility.[- or ]

(B) Transport by air or boat ambulance is reimbursable if the time and distance required to reach an appropriate facility make the transport by ground ambulance impractical or would endanger the life or safety of the recipient. If the recipient's medical condition does not meet the emergency air or boat criteria, but does meet the emergency ground transportation criteria, the payment to the provider is limited to the amount that would be payable at the emergency ground transportation rate.

(2) Emergency triage, treat and transport (ET3) services. HHSC may reimburse a Medicaid-enrolled ambulance provider responding to a call initiated by an emergency response system and upon arrival at the scene the ambulance provider determines the recipient's needs are nonemergent, but medically necessary. ET3 services may be reimbursed for:

(A) transporting Medicaid recipients to alternative destination sites other than an emergency department;

(B) providing treatment in place at the scene; and

(C) facilitating treatment in place via telemedicine or telehealth.

(3) [(2)] Nonemergency ambulance transportation. [Non-emergency Ambulance Transportation.] HHSC [The Commission or its designee] may reimburse a Medicaid-enrolled ambulance provider for nonemergency [non-emergency] transport when the following requirements are met:

(A) A physician, nursing facility, health care provider, or other responsible party, must obtain prior [shall obtain] authorization from HHSC [the Commission or its designee] when an ambulance is used to transport a recipient in circumstances not involving an emergency.

(i) Except as provided by clause (iii) of this subparagraph, a request for prior authorization must be evaluated by HHSC [the Commission or its designee] based on the recipient's medical needs and may be granted for a length of time appropriate to the recipient's medical condition.[-]

(ii) Except as provided by clause (iii) of this subparagraph, a response to a request for prior authorization must be made by HHSC [the Commission or its designee] not later than 48 hours after receipt of the request; and[-]

(iii) A request for prior authorization must be granted immediately by HHSC [the Commission or its designee] and must be effective for a period of not more than 180 days from the date of issuance if the request includes a written statement from a physician that:

(I) states [States] that alternative means of transporting the recipient are contraindicated; and

(II) is [Is] dated not earlier than the 60th day before the date on which the request for authorization is made.

(B) If the request is for authorization of ambulance transportation for only one day in circumstances not involving an emergency, a physician, nursing facility, health care provider, or

other responsible party must [shall] obtain authorization from HHSC [the Commission or its designee] no later than the next business day following the day of transport.[-]

(C) If the request is for authorization of ambulance transportation for more than one day in circumstances not involving an emergency, a physician, nursing facility, health care provider, or other responsible party must obtain [shall obtain] a single authorization before an ambulance is used to transport a recipient.[-]

(D) A person denied payment for ambulance services rendered is entitled to payment from the nursing facility, healthcare provider, or other responsible party that requested the services if:

(i) payment [Payment] under the Medicaid program is denied because of lack of prior authorization; and

(ii) the [The] person provides the nursing facility, healthcare provider, or other responsible party with a copy of the bill for which payment was denied.

(E) [(3)] HHSC [The Commission or its designee authorized to act on behalf of the Commission] must be available to evaluate requests for authorization under this section [subsection] not less than 12 hours each day, excluding weekends and state holidays.

(4) Hearings. For information about recipient fair hearings, refer to HHSC's [the Commission's] fair hearing rules, Chapter 357 of this title (relating to Hearings).

(5) Provider appeal. [Appeal.] An ambulance provider denied payment for services rendered because of failure to obtain prior authorization, or because a request for prior authorization was denied, is entitled to appeal the denial of payment to HHSC [the Commission or its designee]. A denial of a claim may be appealed by a provider under HHSC's [the Commission's] appeals procedures contained in the Texas Medicaid Provider Procedures Manual and §354.1003 of this subchapter [title] (relating to Time Limits for Submitted Claims).

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 June 30, 2023.

TRD-202302400

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 438-2934



## CHAPTER 355. REIMBURSEMENT RATES

### SUBCHAPTER A. COST DETERMINATION PROCESS

#### 1 TAC §355.105

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §355.105, concerning General Reporting and Documentation Requirements, Methods, and Procedures.

#### BACKGROUND AND PURPOSE

Texas Human Resources Code §40.058 requires the Texas Department of Family and Protective Services (DFPS) and HHSC to "enter into contracts for the provision of shared administrative

services, including...rate setting." As part of these rate-setting activities, HHSC collects annual cost reports from program providers in the 24-Hour Residential Child Care (24RCC) program and uses the data to calculate and recommend payment rates to DFPS. DFPS currently reimburses providers through two payment models: the legacy system and Community-Based Care (CBC). Under the legacy system, DFPS pays 24RCC providers a payment rate for each day of care provided. Under CBC, DFPS contracts with a Single Source Continuum Contractor (SSCC) who is responsible for finding foster homes or other living arrangements for children in state care and providing them with a full continuum of services. SSCCs subcontract with residential childcare providers to provide residential foster care in their catchment areas.

The Texas Legislature directed DFPS to implement foster care rate modernization within the Issue Docket Decisions of the 2024-2025 General Appropriations Bill, House Bill 1, 88th Legislature, Regular Session, 2023 (Article II - Health and Human Services). Cost Report modifications have been outlined in HHSC's legislative reports pertaining to the Foster Care Rate Modernization project. For example, HHSC's Pro Forma Modeled Rate and Fiscal Impact Report, as required by the 2022-2023 General Appropriations Act, Senate Bill 1, 87th Legislature, Regular Session, 2021 (Article II Special Provisions Relating to All Health and Human Services Agencies, Section 26), stated: "HHSC and DFPS must evaluate if calculating a statewide case management rate using actual SSCC cost data in lieu of resource transfer is appropriate. Using SSCC costs to calculate the CBC rate may improve the state's ability to align rates more closely to provider costs. HHSC and DFPS would have to evaluate if a cost-based approach is appropriate for CBC. A cost-based approach could result in DFPS paying provider-specific, per-catchment rates or a uniform statewide rate." The cost-based approach was also outlined in HHSC's Implementation Plan.

The purpose of the proposal is to update the cost report excusal criteria for DFPS' 24RCC program to ensure program providers have sufficient data to justify collecting an annual cost report. The proposed amendment updates the excusal criteria to account for providers who have subcontracted with an SSCC under CBC by adding SSCC referrals into the calculation of state-placed days.

The proposed amendment would also require all SSCCs to submit cost reports on the state fiscal year rather than the provider's current fiscal year. This amendment would allow additional time for claims adjudication before cost reports are submitted to improve data reliability and reduce adjustments during HHSC's financial examination processes. The amendments also make clarifying edits throughout the rule.

#### SECTION-BY-SECTION SUMMARY

The proposed amendment to §355.105(b)(4)(D)(viii) removes the excusal criteria for providing only basic level services and adds SSCC-placed days to the definition of state-placed days for the purposes of 24RCC program cost report excusal criteria.

The proposed amendment to §355.105(b)(5) requires that the SSCC's cost reporting period coincides with the State of Texas's fiscal year.

The proposed amendment to §355.105 includes reference corrections and edits to improve readability and understanding.

#### 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 not create a new rule;
- (6) the proposed rule will expand 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 also determined that there may be an adverse economic effect on small businesses, micro-businesses, or rural communities. Approximately 50 24RCC providers, who are currently being excused under this rule, will need to complete cost reports as a result of this proposed rule amendment. HHSC cannot estimate the number of small businesses, micro-businesses, or rural communities who must comply with this amendment.

#### 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 implement legislation that does not specifically state that §2001.0045 applies to the rule.

#### PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of the Provider Finance Department, has determined that for each year of the first five years the rule is in effect, the proposed amendment benefits the public because it improves the data used for rate setting and cost analyses used to inform fiscal estimates provided to the legislature. These changes will improve HHSC's ability to estimate methodological rates.

Trey Wood has also determined that for the first five years the proposed rule amendment is in effect, persons who are required to comply with the proposed rule may incur economic costs because changes to the excusal criteria will require more foster care providers to complete reports that currently are excused, which creates a cost to comply. Although HHSC cannot estimate the cost to comply, HHSC anticipates about 50 additional providers will have to complete cost reports under this amendment.

#### 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 HHSC Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030, or by email to PFD-LTSS@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 23R039" in the subject line.

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §40.058, which provides for HHSC to provide administrative, rate setting, and contracting services on behalf of DFPS.

The amendment affects Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 40.

§355.105. *General Reporting and Documentation Requirements, Methods, and Procedures.*

(a) (No change.)

(b) Cost report requirements. Unless specifically stated in program rules or excused as described in paragraph (4)(D) of this subsection, each provider must submit financial and statistical information on cost report forms provided by HHSC, [øf] on facsimiles that are formatted according to HHSC specifications and are pre-approved by HHSC staff, or electronically in HHSC-prescribed format in programs where these systems are operational. The cost reports must be submitted to HHSC in a manner prescribed by HHSC. The cost reports must be prepared to reflect the activities of the provider while delivering contracted services during the fiscal year specified by the cost report. Cost reports or other special surveys or reports may be required for other periods at the discretion of HHSC. Each provider is responsible for accurately completing any cost report or other special survey or report submitted to HHSC.

(1) Accounting methods. All financial and statistical information submitted on cost reports must be based upon the accrual method of accounting, except where otherwise specified in §355.102 and §355.103 of this subchapter [title] (relating to General Principles of Allowable and Unallowable Costs and Specifications for Allowable and Unallowable Costs) and in the case of governmental entities operating on a cash or modified accrual basis. For cost-reporting purposes, accrued expenses must be incurred during the cost-reporting [eost reporting] period and must be paid within 180 days after the end of that cost-reporting [eost reporting] period. In situations where a contracted provider, any of its controlling entities, its parent company/sole member, or its related-party management company has filed for bankruptcy protection, the contracted provider may request an exception to the 180-day requirement for payment of accrued allowable expenses by submitting a written request to the HHSC Provider Finance Department.

The written request must be submitted within 60 days of the date of the bankruptcy filing or at least 60 days prior to the due date of the cost report for which the exception is being requested, whichever is later. The contracted provider will then be requested by the HHSC Provider Finance Department to provide certain documentation, which must be provided by the specified due date. Such exceptions due to bankruptcy may be granted for reasonable, necessary, and documented accrued allowable expenses that were not paid within the 180-day requirement. Accrued revenues must be for services performed during the cost-reporting [eost reporting] period and do not have to be received within 180 days after the end of that cost reporting period in order to be reported as revenues for cost-reporting purposes. Except as otherwise specified by the cost determination process rules of this chapter, cost report instructions, or policy clarifications, cost reports should be prepared consistent with generally accepted accounting principles (GAAP), which are those principles approved by the American Institute of Certified Public Accountants (AICPA). Internal Revenue Service (IRS) laws and regulations do not necessarily apply in the preparation of the cost report. In cases where cost-reporting [eost reporting] rules differ from GAAP, IRS, or other authorities, HHSC rules take precedence for provider cost-reporting purposes.

(2) Recordkeeping and adequate documentation. There is a distinction between noncompliance in recordkeeping, which equates with unauditability of a cost report and constitutes an administrative contract violation or, for the Nursing Facility program, may result in vendor hold, and a provider's inability to provide adequate documentation, which results in disallowance of relevant costs. Each is discussed in the following paragraphs.

(A) Recordkeeping. Providers must ensure that records are accurate and sufficiently detailed to support the legal, financial, and other statistical information contained in the cost report. Providers must maintain all work papers [workpapers] and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules. HHSC may require supporting documentation other than that contained in the cost report to substantiate reported information.

(i) For contracted providers subject to 40 TAC Chapter 49, each provider must maintain records according to the requirements stated in 40 TAC §49.307 (relating to Record Retention and Disposition) and according to the HHSC's prescribed chart of accounts, when available.

(ii) If a contractor is terminating business operations, the contractor must ensure that:

(I) records are stored and accessible; and

(II) someone is responsible for adequately maintaining the records.

(iii) For nursing facilities, failure to maintain all work papers [workpapers] and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules may result in vendor hold as specified in §355.403 of this chapter [title] (relating to Vendor Hold).

(iv) For all other programs, failure to maintain all work papers [workpapers] and any other records that support the information submitted on the cost report relating to all allocations, cost centers, cost or statistical line items, surveys, and schedules constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter [title] (relating to Administrative Contract Violations).

(B) Adequate documentation. ~~The~~ [To be allowable, the] relationship between reported costs and contracted services must be clearly and adequately documented to be allowable. Adequate documentation consists of all materials necessary to demonstrate the relationship of personnel, supplies, and services to the provision of contracted client care or the relationship of the central office to the individual service delivery entity level. These materials may include but are not limited to, accounting records, invoices, organizational charts, functional job descriptions, other written statements, and direct interviews with staff, as deemed necessary by HHSC auditors to perform required tests of reasonableness, necessity, and allowability.

(i) The minimum allowable statistical duration for a time study upon which to base salary allocations is four weeks per year, with one week being randomly selected from each quarter so as to assure that the time study is representative of the various cycles of business operations. One week is defined as only those days the contracted provider is in operation for ~~during~~ seven continuous days. The time study can be performed for one continuous week during a quarter, or it can be performed over five or seven individual days, whichever is applicable, throughout a quarter. The time study must be a 100% time study, accounting for 100% of the time paid to the employee, including vacation and sick leave.

(ii) To support the existence of a loan, the provider must have available a signed copy of the loan contract, which contains the pertinent terms of the loan, such as amount, rate of interest, method of payment, due date, and collateral. The documentation must include an explanation for the purpose of the loan, and an audit trail must be provided showing the use of the loan proceeds. Evidence of systematic interest and principal payments must be available and supported by the payback schedule in the note or amortization schedule supporting the note. Documentation must also include substantiation of any costs associated with the securing of the loan, such as broker's fees, due diligence fees, lender's fees, attorney's fees, etc. To document allowable interest costs associated with related party loans, the provider is required to maintain documentation verifying the prime interest rate in accordance with §355.103(b)(11)(C) of this subchapter [title] for a similar type of loan as of the effective date of the related party loan.

(iii) For ground transportation equipment, a mileage log is not required if the equipment is used solely (100%) for the provision of contracted client services in accordance with program requirements in delivering one type of contracted care. However, the contracted provider must have a written policy that states that the ground transportation equipment is restricted to that use, and that policy must be followed. For ground transportation equipment that is used for several purposes (including for personal use) or multiple programs or across various business components, mileage logs must be maintained. Personal use includes, among other things, driving to and from a personal residence. At a minimum, mileage logs must include for each individual trip the date, the time of day (beginning and ending), driver, persons in the vehicle, trip mileage (beginning, ending, and total), purpose of the trip, and the allocation centers (the departments, programs, and/or business entities to which the trip costs should be allocated). Flight logs must include dates, mileage, passenger lists, and destinations, along with any other information demonstrating the purpose of the trips so that a relationship to contracted client care in Texas can be determined. For the purpose of comparison to the cost of commercial alternatives, documentation of the cost of operating and maintaining a private aircraft includes allowable expenses relating to the lease or depreciation of the aircraft; aircraft fuel and maintenance expenses; aircraft insurance, taxes, and interest; pilot expenses; hangar and other related expenses; mileage, vehicle rental or other ground transportation expense; and airport parking fees. Documentation demonstrating the allowable cost of commercial alternatives includes commercial air-

fare ticket costs at the lowest fare offered (including all discounts) and associated expenses, including mileage, vehicle rental or other ground transportation expenses [expense]; airport parking fees; and any hotel or per diem due to necessary layovers (no scheduled flights at the time of return trip).

(iv) To substantiate the allowable cost of leasing a luxury vehicle as defined in §355.103(b)(10)(C)(i) of this subchapter [title], the provider must obtain at the time of the lease a separate quotation establishing the monthly lease costs for the base amount allowable for cost-reporting purposes as specified in §355.103(b)(10)(C)(i) of this subchapter [title]. Without adequate documentation to verify the allowable lease costs of the luxury vehicle, the reported costs shall be disallowed.

(v) For adequate documentation purposes, a written description of each cost allocation method must be maintained that includes, at a minimum, a clear and understandable explanation of the numerator and denominator of the allocation ratio described in words and in numbers, as well as a written explanation of how and to which specific business components the remaining percentage of costs were allocated.

(vi) To substantiate the allowable cost for staff training as defined in §355.103(b)(15)(A) of this subchapter [title], the provider must maintain a description of the training verifying that the training pertained to contracted client care-related services or quality assurance. At a minimum, a program brochure describing the seminar or a conference program with a description of the workshop must be maintained. The documentation must provide a description clearly demonstrating that the seminar or workshop provided training for [pertaining to] contracted client care-related services or quality assurance.

(vii) Documentation regarding the allocation of costs related to noncontracted services, as specified in §355.102(j)(2) of this subchapter [title], must be maintained by the provider. At a minimum, the provider must maintain written records verifying the number of units of noncontracted services provided during the provider's fiscal year, along with adequate documentation supporting the direct and allocated costs associated with those noncontracted services.

(viii) Adequate documentation to substantiate legal, accounting, and auditing fees must include, at a minimum, the amount of time spent on the activity, a written description of the activity performed which clearly explains to which business component the cost should be allocated, the person performing the activity, and the hourly billing amount of the person performing the activity. Other legal, accounting, and auditing costs, such as photocopy costs, telephone costs, court costs, mailing costs, expert witness costs, travel costs, and court reporter costs, must be itemized and clearly denote to which business component the cost should be allocated.

(ix) Providers who self-insure [self insure] for all or part of their employee-related insurance costs, such as health insurance and workers' compensation costs, must use one of the two following methods for determining and documenting the provider's allowable costs under the cost ceilings and any carry forward as described in §355.103(b)(13)(E) of this subchapter [title].

(1) Providers may obtain and maintain each fiscal year's documentation to establish what their premium costs would have been had they purchased commercial insurance for total coverage. The documentation should include, at a minimum, bids from two commercial carriers. Bids must be obtained no less frequently than every three years.

(II) If providers choose not to obtain and maintain commercial bids as described in subclause (I) of this clause, providers may claim as an allowable cost the health insurance actual paid claims incurred on behalf of the employees that do [does] not exceed 10% of the payroll for employees eligible for receipt of this benefit. In addition, providers may claim as an allowable cost the workers' compensation actual paid claims incurred on behalf of the employees, an amount each cost report period not to exceed 10% of the payroll for employees eligible for receipt of this benefit.

(III) Providers who self-insure [self insure] must also maintain documentation that supports the amount of claims paid each year and any allowable costs to be carried forward to future cost-reporting periods.

(x) Providers who self-insure [self insure] for all or part of their coverage for nonemployee-related insurance, such as malpractice insurance, comprehensive general liability, and property insurance, must maintain documentation for each cost-reporting period to establish what their premium costs would have been had they purchased commercial insurance for total coverage. The documentation should include, at a minimum, bids from two commercial carriers. Bids must be obtained no less frequently than every three years. Providers who self-insure [self insure] must also maintain documentation that supports the amount of claims paid each year and any allowable costs to be carried forward to future cost-reporting periods. Governmental providers must document the existence of their claims management and risk management programs.

(xi) Regarding compensation of owners and related parties, providers must maintain the following documentation, at a minimum, for each owner or related party: a detailed written description of actual duties, functions, and responsibilities; documentation substantiating that the services performed are not duplicative of services performed by other employees; time sheets or other documentation verifying the hours and days worked; the amount of total compensation paid for these duties, with a breakdown detailing regular salary, overtime, bonuses, benefits, and other payments; documentation of regular, periodic payments and/or accruals of the compensation, documentation that the compensation is subject to payroll or self-employment taxes; and a detailed allocation worksheet indicating how the total compensation was allocated across business components receiving the benefit of these duties.

(I) Regarding bonuses paid to owners and related parties, the provider must maintain clearly defined bonus policies in its written agreements with employees or in its overall employment policy. At a minimum, the bonus policy must include the basis for distributing the bonuses, including qualifications for receiving the bonus[<sub>2</sub>] and how the amount of each bonus is calculated. Other documentation must specify who received bonuses, whether the persons receiving bonuses are owners, related parties, or arm's-length employees, and the bonus amount received by each individual.

(II) Regarding benefits provided to owners and related parties, the provider must maintain clearly defined benefit policies in its written agreements with employees or in its overall employment policy. At a minimum, the documentation must include the basis for eligibility for each type of benefit available, who is eligible to receive each type of benefit, who actually receives each type of benefit, whether the persons receiving each type of benefit are owners, related parties, or arm's-length employees, and the amount of each benefit received by each individual.

(xii) Regarding all forms of compensation, providers must maintain documentation for each employee which clearly identifies each compensation component, including regular

pay, overtime pay, incentive pay, mileage reimbursements, bonuses, sick leave, vacation, other paid leave, deferred compensation, retirement contributions, provider-paid instructional courses, health insurance, disability insurance, life insurance, and any other form of compensation. Types of documentation would include insurance policies; provider benefit policies; records showing paid leave accrued and taken; documentation to support hours (regular and overtime) worked and wages paid; and mileage logs or other documentation to support mileage reimbursements and travel allowances. For accrued benefits, the documentation must clearly identify the period of the accrual. For example, if an employee accrues two weeks of vacation during 20x1 and receives the corresponding vacation pay during 20x3, that employee's compensation documentation for 20x3 should clearly indicate that the vacation pay received had been accrued during 20x1.

(I) For staff required to maintain continuous daily time sheets as per §355.102(j) of this subchapter [title] and subclause (II) of this clause, the daily timesheet must document, for each day, the staff member's start time, stop time, total hours worked, and the actual time worked (in increments of 30 minutes or less) providing direct services for the provider, the actual time worked performing other functions, and paid time off. The employee must sign each timesheet. The employee's supervisor must sign the timesheets each payroll period or at least monthly. Work schedules are unacceptable documentation for staff whose duties include multiple direct service types, both direct and indirect service component types, and both direct hands-on support and first-level supervision of direct care workers.

(II) For the Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID), Home and Community-based Services (HCS), and Texas Home Living (TxHmL) programs, staff required to maintain continuous daily timesheets include staff whose duties include multiple direct service types, both direct and indirect service component types and/or both direct hands-on support and first-level supervision of direct care workers.

(xiii) Management fees paid to related parties must be documented as to the actual costs of the related party for materials, supplies, and services provided to the individual provider[<sub>2</sub>] and upon which the management fees were based. If the cost to the related party includes owner compensation or compensation to related parties, documentation guidelines for those costs are specified in clause (xi) of this subparagraph. Documentation must be maintained that indicates stated objectives, periodic assessment of those objectives, and evaluation of the progress toward those objectives.

(xiv) For central office and/or home office costs, documentation must be maintained that indicates the organization of the business entity, including position, titles, functions, and compensation. For multi-state organizations, documentation must be maintained that clearly defines the relationship of costs associated with any level of management above the individual Texas contracted entity [which are] allocated to the individual Texas contracted entity.

(xv) Documentation regarding depreciable assets includes, at a minimum, historical cost, date of purchase, depreciable basis, estimated useful life, accumulated depreciation, and the calculation of gains and losses upon disposal.

(xvi) Providers must maintain documentation clearly itemizing their employee relations expenditures. For employee entertainment expenses, documentation must show the names of all persons participating, along with a classification of the person attending, such as employee, nonemployee, owner, family of employee, client, or vendor.



(xvii) Adequate documentation substantiating the offsetting of grants and contracts from federal, state, or local governments prior to reporting either the net expenses or net revenue must be maintained by the provider. As specified in §355.103(b)(18) of this subchapter [title], such offsetting is required prior to reporting on the cost report. The provider must maintain written documentation as to the purpose for which the restricted revenue was received and the offsetting of the restricted revenue against the allowable and unallowable costs for which the restricted revenue was used.

(xviii) During the course of an audit or an audit desk review, the provider must furnish any reasonable documentation requested by HHSC auditors within ten working days of the request or a later date as specified by the auditors. If the provider does not present the requested material within the specified time, the audit or audit desk review is closed, and HHSC automatically disallows the costs in question.

(xix) Any expense that cannot be adequately documented or substantiated is disallowed. HHSC is not responsible for the contracted provider's failure to adequately document and substantiate reported costs.

(xx) Any cost report that is determined to be un-auditable through a field audit or that cannot have its costs verified through a desk review will not be used in the reimbursement determination process.

(3) Cost report and methodology certification. Providers must certify the accuracy of cost reports submitted to HHSC in the format specified by HHSC. Providers may be liable for civil and/or criminal penalties if the cost report is not completed according to HHSC requirements or is determined to contain misrepresented or falsified information. Cost report preparers must certify that they read the cost determination process rules, the reimbursement methodology rules, the cost report cover letter, and cost report instructions, and that they understand that the cost report must be prepared in accordance with the cost determination process rules, the reimbursement methodology rules and cost report instructions. Not all persons who contributed to the completion of the cost report must sign the certification page. However, the certification page must be signed by a responsible party with direct knowledge of the preparation of the cost report. A person with supervisory authority over the preparation of the cost report who reviewed the completed cost report may sign a certification page in addition to the actual preparer.

(4) Requirements for cost report completion.

(A) A completed cost report must:

(i) be completed according to the cost determination rules of this chapter, program-specific allowable and unallowable rules, cost report instructions, and policy clarifications;

(ii) contain a signed, notarized, original certification page or an electronic equivalent where such equivalents are specifically allowed under HHSC policies and procedures;

(iii) be legible with entries in sufficiently dark print to be photocopied;

(iv) contain all pages and schedules;

(v) be submitted on the proper cost report form;

(vi) be completed using the correct cost reporting period; and

(vii) contain a copy of the state-issued cost report training certificate except for cost reports submitted through the State of Texas Automated Information and Reporting System (STAIRS).

(B) Providers are required to report amounts on the appropriate line items of the cost report pursuant to guidelines established in the methodology rules, cost report instructions, or policy clarifications. Refer to program-specific reimbursement methodology rules, cost report instructions, or policy clarifications for guidelines used to determine the placement of amounts on cost report line items.

(i) For nursing facilities, placement on the cost report of an amount, which was determined to be inaccurately placed, may result in vendor hold as specified in §355.403 of this chapter [title] (relating to Vendor Hold).

(ii) For School Health and Related Services (SHARS), placement on the cost report of an amount, which was determined to be inaccurately placed, may result in an administrative contract violation as specified in §355.8443 of this chapter [title] (relating to Reimbursement Methodology for School Health and Related Services (SHARS)).

(iii) For all other programs, placement on the cost report of an amount, which was determined to be inaccurately placed, constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter [title].

(C) A completed cost report must be filed by the cost report due date.

(i) For nursing facilities, failure to file a completed cost report by the cost report due date may result in vendor hold as specified in §355.403 of this chapter [title].

(ii) For SHARS, failure to file a completed cost report by the cost report due date constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.8443 of this chapter [title].

(iii) For all other programs, failure to file a completed cost report by the cost report due date constitutes an administrative contract violation. In the case of an administrative contract violation, procedural guidelines and informal reconsideration and/or appeal processes are specified in §355.111 of this subchapter [title].

(D) HHSC may excuse providers from the requirement to submit a cost report. A provider that is not enrolled in Attendant Compensation Rate Enhancement as described in §355.112 of this subchapter [title] (relating to Attendant Compensation Rate Enhancement) for a specific program or the Nursing Facility Direct Care Staff Rate enhancement as described in §355.308 of this chapter [title] (relating to Direct Care Staff Rate Component) during the reporting period for the cost report in question, is excused from the requirement to submit a cost report for such program if the provider meets one or more of the following conditions:

(i) For all programs, if the provider performed no billable services during the provider's cost-reporting period.

(ii) For all programs, if the cost-reporting period would be less than or equal to 30 calendar days or one entire calendar month.

(iii) For all programs, if circumstances beyond the provider's control, such as the loss of records due to natural disasters or removal of records from the provider's custody by a regulatory agency, make cost-report completion impossible.

(iv) For all programs, if all of the contracts that the provider is required to include in the cost report have been terminated before the cost-report due date.

(v) For the Nursing Facility, ICF/IID, Assisted Living/Residential Care (AL/RC), and Residential Care (RC) programs, if the total number of days that the provider performed service for recipients during the cost-reporting period is less than the total number of calendar days included in the cost-reporting period.

(vi) For the Day Activity and Health Services (DAHS) program, if the provider's total units of service provided to recipients during the cost-reporting period is less than the total number of calendar days included in the cost-reporting period times 1.5.

(vii) For the Home-Delivered Meals program, if a provider agency served an average of fewer than 500 meals a month for the designated cost report period.

(viii) On or after September 1, 2023, for [Føf] the Department of Family and Protective Services (DFPS) 24-Hour Residential Child-Care program, if:

(I) the provider has no current contract(s) within the state for 24-Hour Residential Child-Care program [the contract was not renewed];

~~[(II) only Basic Level services were provided;]~~

~~[(III) the total number of state-placed days (DFPS days and other state agency days) was 10 percent or less of the total days of service provided during the cost-reporting period;]~~

~~[(II) [(IV)] the total number of DFPS-placed days and Single Source Continuum Contractor (SSCC)-placed days was 10 percent or less of the total days of service provided during the cost-reporting period;~~

~~[(III) [(V)] for facilities that provide Emergency Care Services only, the occupancy rate was less than 30 percent during the cost-reporting period; or~~

~~[(IV) [(VI)] for all other facility types except child-placing agencies and those providing Emergency Care Services, the occupancy rate was less than 50 percent during the cost-reporting period.~~

(5) Cost report year. A provider's cost report year must coincide with the provider's fiscal year as used by the provider for reports to the Internal Revenue Service (IRS) or with the state of Texas' fiscal year, which begins September 1 and ends August 31, except for SSCC providers in the DFPS 24-Hour Residential Child Care program whose cost report year must coincide with the state fiscal year.

(A) Providers whose cost report year coincides with their IRS fiscal year are responsible for reporting to HHSC Provider Finance Department any change in their IRS fiscal year and subsequent cost report year by submitting written notification of the change to HHSC Provider Finance Department along with supportive IRS documentation. HHSC Provider Finance Department must be notified of the provider's change in IRS fiscal year no later than 30 days following the provider's receipt of approval of the change from the IRS.

(B) Providers who chose to change their cost report year from their IRS fiscal year to the state fiscal year or from the state fiscal year to their IRS fiscal year must submit a written request to HHSC Provider Finance Department by August 1 of state fiscal year in question.

(6) Failure to report allowable costs. HHSC is not responsible for the contracted provider's failure to report allowable costs;[5]

however, any omitted costs [which are] identified during the desk review or audit process will be included in the cost report or brought to the attention of the provider to correct by submitting an amended cost report.

(c) - (i) (No change.)

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

Filed with the Office of the Secretary of State on July 7, 2023.

TRD-202302462

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 20, 2023

For further information, please call: (737) 867-7817



## SUBCHAPTER F. REIMBURSEMENT METHODOLOGY FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESS OR INTELLECTUAL OR DEVELOPMENTAL DISABILITY

### 1 TAC §355.727

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §355.727, concerning Add-on Payment Methodology for Home and Community-Based Services Supervised Living and Residential Support Services.

#### BACKGROUND AND PURPOSE

The purpose of the proposal is to repeal §355.727, concerning Add-on Payment Methodology for Home and Community-Based Services Supervised Living and Residential Support Services. The temporary add-ons expire on August 31, 2023. Funding associated with the add-ons will be incorporated into the base rates for supervised living and residential support services in the Home and Community-Based Services (HCS) waiver program.

#### FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the repeal will be in effect, enforcing or administering the repeal 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 repeal will be in effect:

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

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

There is no impact on small businesses, micro-businesses, or rural communities because the temporary add-on rates will be made a permanent part of the base rates for supervised living and residential support services.

**LOCAL EMPLOYMENT IMPACT**

The proposed repeal will not affect local economy.

**COSTS TO REGULATED PERSONS**

Texas Government Code §2001.0045 does not apply to this repeal because the repeal does not impose a cost on regulated persons.

**PUBLIC BENEFIT AND COSTS**

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the repeal is in effect, the public benefit will be stabilizing the direct care workforce because the temporary add-on rates for supervised living and residential support services will be made permanent.

Trey Wood has also determined that for the first five years the repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed repeal because the temporary add-ons will be made a permanent part of the base rates for supervising living and residential support services.

**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 HHSC Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030, or by email to PFD-LTSS@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 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 23R044" in the subject line.

**STATUTORY AUTHORITY**

The repeal 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 system; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; 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 Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance (Medicaid) payments under Texas Human Resources Code Chapter 32.

The repeal affects Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 32.

§355.727. *Add-on Payment Methodology for Home and Community-Based Services Supervised Living and Residential Support Services.* 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 July 7, 2023.

TRD-202302461

Karen Ray  
Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 867-7817



**SUBCHAPTER M. MISCELLANEOUS PROGRAMS**

**DIVISION 6. PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS**

**1 TAC §355.9080**

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §355.9080, concerning Reimbursement Methodology for Prescribed Pediatric Extended Care Centers.

**BACKGROUND AND PURPOSE**

The purpose of the proposal is to remove the requirement that the payment rate for Prescribed Pediatric Extended Care Centers (PPECC) cannot be more than 70 percent of the average hourly Private Duty Nursing rate under the Texas Health Steps (THSteps) Program. The proposed amendment would implement a rate methodology change for PPECC reimbursement approved through HHSC's biennial fee review process and would enable PPECC rate methodology to reflect allowable provider costs.

**SECTION-BY-SECTION SUMMARY**

The proposed amendment to §355.9080(a) removes the requirement that the payment rate cannot be more than 70 percent of the average hourly Private Duty Nursing rate under the THSteps Program.

**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, there will be an estimated additional cost to state government as a result of enforcing and administering the rule as proposed. Enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of local government.

The effect on state government for each year of the first five years the proposed rule is in effect is an estimated cost of \$118,308 in General Revenue (GR) (\$340,258 All Funds (AF)) in fiscal year (FY) 2023, \$567,953 GR (\$1,424,512 AF) in FY 2024, \$602,420 GR (\$1,511,719 AF) in FY 2025, \$638,686 GR (\$1,602,726 AF) in FY 2026, \$638,686 GR (\$1,602,726 AF) in FY 2027.

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

#### LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons.

#### 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 benefit will be the PPECC rate methodology and will reflect the cost of allowable PPECC services.

Trey Wood has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because the rule does not impose costs on regulated persons.

#### 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 HHSC Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030, or by email to PFD-LTSS@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 23R047" in the subject line.

#### STATUTORY AUTHORITY

The amendment 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 Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; 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; Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

The amendment affects Texas Government Code Chapter 531, and Texas Human Resources Code Chapter 32.

§355.9080. *Reimbursement Methodology for Prescribed Pediatric Extended Care Centers.*

(a) Payment rate determination. Payment rates for the Prescribed Pediatric Extended Care Centers program are developed based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs providing [~~that provide~~] similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures). [~~The payment rate cannot be more than 70 percent of the average hourly Private Duty Nursing rate under the Texas Health Steps (THSteps) program.~~]

(b) Related information. The information in §355.101 of this chapter (relating to Introduction) and §355.105(g) of this chapter applies to this section.

(c) Reporting of cost. To gather adequate financial and statistical information upon which to base reimbursement, the Health and Human Services Commission (HHSC) may require a contracted provider to submit a cost report for any service provided through the Prescribed Pediatric Extended Care Centers program.

(1) If HHSC requires the provider to submit a cost report, the provider must follow the cost reporting guidelines in §355.105 of

this chapter and the guidelines for determining whether a cost is allowable or unallowable in §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs) and §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs).

(2) A provider is excused from the requirement to submit a cost report if the provider meets one or more of the conditions in §355.105(b)(4)(D) of this chapter.

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

Filed with the Office of the Secretary of State on July 6, 2023.

TRD-202302435

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 867-7817



## TITLE 10. COMMUNITY DEVELOPMENT

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

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

##### 10 TAC §§24.1, 24.2, 24.10

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC Chapter 24, §§24.1, 24.2 and 24.10. The rule amendments update the income limits for the Texas Bootstrap Loan Program to conform to updated statutory requirements arising from H.B. 1472 passed during the 88th regular legislative session and signed into law by Governor Abbott on June 6, 2023.

**FISCAL NOTE.** Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amendment to the rule is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

**GOVERNMENT GROWTH IMPACT STATEMENT.** Mr. Wilkinson also has determined that, for the first five years the amendment would be in effect:

1. The proposed amendment to the rule will not create or eliminate a government program;
2. The proposed amendment to the rule will not require a change in the number of employees of the Department;
3. The proposed amendment to the rule will not require additional future legislative appropriations;
4. The proposed amendment to the rule will result in neither an increase nor a decrease in fees paid to the Department;
5. The proposed amendment to the rule will not create a new regulation;
6. The proposed amendment to the rule will not repeal an existing regulation;

7. The proposed amendment to the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The proposed amendment to the rule will neither positively nor negatively affect this state's economy.

**PUBLIC BENEFIT/COST NOTE.** Mr. Wilkinson also has determined that, for each year of the first five years the amendment to the rule is in effect, the public benefit anticipated as a result of the action will be conformance to statutory requirements. There will not be any economic cost to any individual required to comply with the amendment.

**ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES.** The Department has determined that there will be no economic effect on small or micro-businesses or rural communities.

**REQUEST FOR PUBLIC COMMENT.** All comments or questions in response to this action may be submitted in writing from July 14, 2023, to August 18, 2023. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Single Family and Homeless Programs, P.O. Box 13941, Austin, Texas 78711-3941, or email [htf@tdhca.state.tx.us](mailto:htf@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Central Daylight Time, August 18, 2023.

**STATUTORY AUTHORITY.** The proposed amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed amendment affects no other code, article, or statute.

##### §24.1. Purpose.

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the Department), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(b) The Texas Bootstrap Loan Program is a self-help housing construction Program designed to provide [Very] Low Income families an opportunity to help themselves attain homeownership or repair their existing homes under applicable building codes and housing standards.

##### §24.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(1) Capital Recovery Fee--A charge or assessment imposed by a political subdivision against new development in order

to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Administrator that authorizes the Administrator to originate certain loans under the Texas Bootstrap Loan Program.

(3) Low Income--Household income does not exceed the greater of 80% of the Area Median Family Income or 80% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

(4) [(3)] New Construction--A Single Family Housing Unit that is newly built on a previously vacant lot that will be occupied by an Income Eligible Household.

(5) [(4)] Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(6) [(5)] Rehabilitation--The improvement, including reconstruction, or modification of an existing Single Family Housing Unit through an alteration, addition, or enhancement on the same lot.

(7) [(6)] Very Low Income--Household income does not exceed the greater of 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

§24.10. *Owner-Builder Qualifications.*

The Owner-Builder must:

(1) Own or be purchasing a piece of real property with the conveyance of said property evidenced by a warranty deed or Contract for Deed;

(2) Be qualified as [Very] Low Income. Eligibility Income calculated utilizing the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the Owner-Builder Applicant, co-Applicant and any other persons living in the home. No income is excluded in this calculation.

(3) Execute a self-help agreement committing to specify and satisfy one of the criteria provided for in subparagraphs (A) - (D) of this paragraph:

(A) Provide at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator;

(B) Provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state-certified Administrator;

(C) Provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator; or

(D) If due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor

of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Administrator;

(4) Successfully complete an Owner-Builder homeownership education class prior to loan funding;

(5) Not have any outstanding judgments or liens on the property; and

(6) Occupy the residence as a Principal Residence within 30 days of the end of the construction period or the closing of the loan, whichever is later. If the Owner-Builder fails to do so, the Department may declare the loan in default and accelerate the note. Any additional habitable structures must be removed from the property prior to closing; however, a portion of the structure may be utilized as storage upon the Department's written approval prior to closing.

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 July 6, 2023.

TRD-202302459

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: August 20, 2023

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



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 100. CHARTERS

##### SUBCHAPTER A. OPEN-ENROLLMENT

##### CHARTER SCHOOLS

###### 19 TAC §100.1

The State Board of Education (SBOE) proposes an amendment to §100.1, concerning the open-enrollment charter school selection process. The proposed amendment would modify the no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 100.1 establishes the process for approval of an open-enrollment charter, including a no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf with the commissioner of education, the commissioner's designee, a member of the SBOE, or a member of an external application review panel.

A petition was received from the Texas Public Charter Schools Association requesting that the no-contact period established in §100.1(d) be eliminated. The SBOE considered the petition at its January-February 2023 meeting and directed Texas Education Agency (TEA) staff to present an amendment to §100.1 that would end the no-contact period for charter school applicants on the date the applicant passes the external review with a passing score.

The proposed amendment to §100.1(d) would remove the no-contact period for open-enrollment charter applicants or any

person or entity acting on their behalf with the commissioner, the commissioner's designee, or a member of an external application review panel. The no-contact period with a member of the SBOE would be modified to end on the date the applicant passes through an external review with a qualifying score.

The SBOE approved the proposed amendment for first reading and filing authorization at its June 23, 2023 meeting.

**FISCAL IMPACT:** Kelvey Oeser, deputy commissioner for educator support, has determined that for the first five years the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit an existing regulation by moving the end of the no-contact period from 90 days after the commissioner's proposal to the date a charter applicant passes through an external review with a qualifying score.

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

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Oeser has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing applicants for open-enrollment charter schools with a less restrictive timeline for when they can contact SBOE members. 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 July 21, 2023, and ends at 5:00 p.m. on August 25, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBOE\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/). The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in August-September 2023 in accordance with the SBOE board operating policies and procedures. 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 July 21, 2023.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code, §12.101, which requires the commissioner of education to notify the State Board of Education of each charter the commissioner proposes to grant. It also establishes that unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant each charter takes effect.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §12.101.

*§100.1. Selection Process.*

(a) In accordance with [the] Texas Education Code (TEC), §12.101, a State Board of Education (SBOE) member shall be designated by the SBOE chair to work in coordination with the commissioner of education on the review of TEC, Chapter 12, Subchapter D, open-enrollment charter school applicants.

(b) Following the commissioner's notification to the SBOE of the charters the commissioner proposes to grant, a majority of the SBOE members present and voting may vote to veto the commissioner's proposed charter(s) or may vote to take no action. The SBOE's consideration of the proposed charters will occur no later than 90 days following the commissioner's notification.

(c) The SBOE may not vote or deliberate on any charter application that has not been proposed by the commissioner. For purposes of this section, deliberation is defined in Texas Government Code, §551.001.

(d) An applicant for an open-enrollment charter, or any person or entity acting on behalf of an applicant for an open-enrollment charter, shall not communicate with [the commissioner or the commissioner's designee,] a member of the SBOE[, or a member of an external application review panel] concerning a charter school application beginning on the date the application is submitted and ending on the date the applicant passes through an external review with a qualifying score [90 days after the commissioner's proposal]. The SBOE may veto a proposed application for violation of this subsection.

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 July 10, 2023.

TRD-202302473

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: August 20, 2023

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

◆   ◆   ◆

# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

### CHAPTER 51. EXECUTIVE SUBCHAPTER D. EDUCATION

#### 31 TAC §51.81

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §51.81, concerning Mandatory Boater Education.

House Bill 2755, enacted by the most recent session of the Texas Legislature, amended Parks and Wildlife Code, §31.108 to require the commission to adopt rules to "approve boater education courses that meet or exceed the minimum instruction requirement established by the National Association of State Boating Law Administrators on or after January 1, 2016." Accordingly, the proposed amendment to §51.81 would alter current rules to require all boater education courses to satisfy the minimum national standards adopted by the National Association of State Boating Law Administrators in effect on June 1, 2022 in order to be approved by the department.

Assistant Commander Cody Jones, Boating Law Administrator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local government as a result of administering the rule.

There will be no impact on persons required to comply with the rule as proposed.

Mr. Jones also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be compliance with the directives of the legislature.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the proposed rule will not result in any direct economic costs to any small businesses, micro-businesses, or rural community; therefore, the department has determined that neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation; not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Assistant Commander Cody Jones, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4624; email: cody.jones@tpwd.texas.gov or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The amendment is proposed under the provisions of Parks and Wildlife Code, §31.108, as amended by House Bill 2755 enacted by 88th Texas Legislature (RS), which requires the commission to approve boater education courses that meet or exceed the minimum instruction requirement established by the National Association of State Boating Law Administrators on or after January 1, 2016.

The proposed amendment affects Parks and Wildlife Code, Chapter 31.

#### §51.81. *Mandatory Boater Education.*

(a) All courses approved for certification and equivalency exam processes must be approved by the department and must satisfy the minimum national standards adopted by the National Association of State Boating Law Administrators in effect on June 1, 2022 [using minimum national standards as means of approval].

(b) - (i) (No change.)

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

Filed with the Office of the Secretary of State on July 10, 2023.

TRD-202302470

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775

◆   ◆   ◆

## SUBCHAPTER O. ADVISORY COMMITTEES

#### 31 TAC §51.615

The Texas Parks and Wildlife Department proposes new §51.615, concerning the Boating and Waterways Advisory Committee (BWAC).



Parks and Wildlife Code, §11.0162, authorizes the Chairman of the Texas Parks and Wildlife Commission (the Commission) to "appoint committees to advise the commission on issues under its jurisdiction." Under Parks and Wildlife Code, Chapter 31, the legislature has designated TPWD as the primary regulatory agency for boating and boating safety. Government Code, Chapter 2110, requires each state agency to adopt rules regarding advisory committees. Unless otherwise specifically provided by statute, the rules must (1) state the purpose of the committee; (2) describe the manner in which the committee will report to the agency; and (3) establish the date on which the committee will automatically be abolished, unless the advisory committee has a specific duration established by statute. Under this authority, the Commission has established a number of advisory committees to provide the department with informed opinion regarding various aspects and dimensions of the department's mission. These advisory committees perform a valuable service for the department and the people of Texas.

The department is the primary state agency responsible for water safety and boating regulation. Staff have determined that the creation of an advisory board for matters concerning boating and waterways would be helpful in assisting the department and the commission in determining and executing appropriate strategies to maximize public safety and public enjoyment with respect to boating in this state.

Assistant Commander Cody Jones, Boating Law Administrator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local government as a result of administering the rule.

There will be no impact on persons required to comply with the rule as proposed.

Mr. Jones also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be the enhancement of department and commission decision-making with respect to regulation of boating and water safety.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the proposed rule will not result in any direct economic costs to any small businesses, micro-businesses, or rural communities; therefore, the department has determined that neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; create a new regulation (creating an advisory committee); not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed new rule may be submitted to Assistant Commander Cody Jones, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4624; email: cody.jones@tpwd.texas.gov or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The new rule is proposed under the provisions of Parks and Wildlife Code, §31.108 as amended by House Bill Government Code, Chapter 2110, which requires the adoption of rules regarding state agency advisory committee.

The proposed new rule affects Government Code, Chapter 2110.

§51.615. Boating and Waterways Advisory Committee (BWAC).

(a) The BWAC is created to advise the department on all matters pertaining to waterway and boating programs in Texas.

(b) The BWAC shall be composed of up to 24 members of the public who have an interest in boating, waterways, and water safety in Texas.

(c) The BWAC shall comply with the requirements of §51.601 of this title (relating to General Requirements).

(d) The BWAC shall expire on July 1, 2026.

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 July 10, 2023.

TRD-202302472

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



## CHAPTER 57. FISHERIES

### SUBCHAPTER J. FISH PASS PROCLAMATION

#### 31 TAC §57.901

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §57.901, concerning Prohibited Acts.

The proposed amendment would retitle the section to more accurately reflect its content and clarify the delineation of restricted

areas within the Cedar Bayou Fish Pass. Cedar Bayou is a natural channel that connects Mesquite Bay to the Gulf of Mexico and functions as a migratory path for various aquatic species to and from the estuary. In 1939, the Texas Legislature prohibited the operation, possession, or mooring of vessels and the placement of pilings, wires, ropes, cables, nets, traps or other obstructions within 2,800 feet of the point where a fish pass connects with the Gulf of Mexico or connects with an inland bay, and further required this restricted area to be permanently marked. Cedar Bayou has been periodically dredged and maintained since that time and the department has erected signs indicating that Cedar Bayou is a fish pass.

The 75th Texas Legislature in 1997 amended Parks and Wildlife Code, §66.204, to specifically authorize the commission to "regulate the placement of obstructions, traps, and mooring in fish passes and the marking of restricted areas in any natural or artificial pass that is opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay." Consequently, the commission promulgated the current rule in 1998. The department has determined that the current rule should be amended to make it clear that "fish pass" and "restricted area" are not synonymous terms; therefore, the proposed amendment would add new subsection (b) to make it clear that the restricted area within the fish pass where no vessels are allowed is distinct from the remainder of the fish pass where vessels may not be anchored or moored for a period exceeding two consecutive days.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be clarity of department regulations.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule as proposed does not directly regulate any small business, microbusiness, or rural community, there will be no adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the proposed rule.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; create a new regulation; not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Assistant Commander Les Casterline, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4853; email: [le.fisheries@tpwd.texas.gov](mailto:le.fisheries@tpwd.texas.gov) or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The amendment is proposed under Parks and Wildlife Code, §66.204, which authorizes the commission to make ruled governing the placement of obstructions, traps, and mooring in fish passes and the marking of restricted areas in any natural or artificial pass that is opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay.

The proposed amendment affects Parks and Wildlife Code, Chapter 66.

§57.901. *Cedar Bayou Fish Pass [Prohibited Acts].*

(a) Within the distance inside [area in] Cedar Bayou between [a Department sign erected] where Mesquite Bay flows into Cedar Bayou and a "No Vessels" marker or [the Department] sign erected by the department near the point where Cedar Bayou [the pass] empties into the Gulf of Mexico, it is an offense to [unlawful]:

(1) [to] place any type of trap; or

(2) anchor or moor a vessel, barge, or structure for a period exceeding two consecutive days.

(b) The distance inside Cedar Bayou from the mouth of the pass where it empties into the Gulf of Mexico to a "No Vessels" marker or sign erected by the department is designated as a restricted area subject to the provisions of Parks and Wildlife Code, §66.204(b).

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 July 10, 2023.

TRD-202302471

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



## SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

## DIVISION 1. GENERAL PROVISIONS

### 31 TAC §57.979

The Texas Parks and Wildlife Department proposes new 31 TAC §57.979, concerning Unlawful Possession of Shark Fins.

The proposed new rule would prescribe the process to be followed at a restaurant or place of business for treating shark fins to render them inedible and thus unfit for illicit commercial purposes.

The Texas Legislature during the most recent regular session enacted Senate Bill (S.B.) 1839, which addresses the unlawful sale and purchase of shark fins and products derived from shark fins. "Shark finning" is the act of removing a shark's fins and discarding the rest of the animal, often while it is still alive, leaving the animal to slowly die because it can no longer swim. The practice of shark finning is widely considered to be barbaric and wasteful, and it is illegal in Texas under current law (Texas Parks and Wildlife Code, §66.2161) and in many other states and countries as well. There is a significant commercial demand for shark fins and related products as foodstuffs, which, because the practice is illegal, has resulted in a lucrative opportunity for unscrupulous persons to engage in criminal activity at the expense of a public resource. In light of documented evidence that the practice continues to be common in Texas, the legislature determined that current statutory provisions regarding shark finning are problematic with respect to prosecution and insufficient in terms of deterrence. S.B. 1839 is intended to address the situation by, among other things, increasing penalties for violation and requiring persons in a place of business or restaurant to immediately destroy and discard shark fins while processing sharks for eventual sale. The bill delegates rulemaking authority to the commission to prescribe the particulars of the process by which shark fins are to be denatured (i.e., destroyed) and discarded.

The proposed new rule would stipulate that a shark fin must be destroyed by immersion in chlorine bleach, acid, or other such chemical or chemical solution for a period of time sufficient to render the shark fin inedible or otherwise unfit for human consumption. The proposed rule also would require destroyed shark fins and shark fin parts to be lawfully disposed of at a landfill or disposal site authorized by the Texas Commission of Environmental Quality to accept such materials, which would include waste removal services provided by third parties.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to the department as a result of administering or enforcing the rule.

There will be no effect on persons required to comply with the rule as proposed.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be the protection of a public resource from exploitation by unscrupulous persons.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct eco-

nomic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that because the rule directly regulates restaurants and places of business, there will be an adverse economic impact on any such business that qualifies as a small business or microbusiness under the provisions of Government Code, Chapter 2006; however, the cost of compliance is a result of legislative action and not the rulemaking. The department considers that the requirement for shark fins to be rendered inedible is imposed by statute and not by rule and that the proposed new rule merely specifies the process for such destruction. Nevertheless, the department has determined that such costs will be minimal, consisting of the cost of purchasing denaturing agents and the disposal of denatured shark fins, costs that all restaurants and similar places of business already incur in the course of normal operations in compliance with other regulatory requirements, such as public health and sanitation codes.

There will be no adverse economic impact on rural communities as a result of the proposed rule, as the rule will not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will, neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; create a new regulation (specifying the process for denaturing and disposing of shark fins); not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Assistant Commander Les Casterline, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4853; email: [le.fisheries@tpwd.texas.gov](mailto:le.fisheries@tpwd.texas.gov) or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The new rule is proposed under the provisions of Senate Bill 1839 of the 88th Texas Legislature (Regular Session), which amended Parks and Wildlife Code, §66.2161 to authorize the commission to promulgate rules stipulating the method and circumstances for the destruction and disposal of shark fins at a restaurant or place of business.

The proposed new rule affects Parks and Wildlife Code, Chapter 66.

§57.979. Unlawful Possession of Shark Fins.

(a) It is unlawful for any person to, upon detaching a shark fin from a shark that is lawfully possessed and being processed in a restaurant or place of business, fail to immediately destroy the shark fin as prescribed in this section. Destroyed shark fins shall be lawfully disposed of, either by a contracted waste removal service or by direct transport to a landfill or waste facility permitted by the Texas Commission on Environmental Quality to receive such material.

(b) In this section, the following terms shall have the following meanings,

(1) Destroy--to treat a shark fin by immersion in chlorine bleach, acid, or other such chemical or chemical solution for a period of time sufficient to render the shark fin inedible or otherwise unfit for human consumption.

(2) Immediately--At once, without delay, promptly.

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 July 10, 2023.

TRD-202302467

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



## CHAPTER 59. PARKS

### SUBCHAPTER A. PARK ENTRANCE AND PARK USER FEES

#### 31 TAC §59.3

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §59.3, concerning Park Entry Passes. The proposed amendment would implement the provisions of House Bill (H.B.) 1740, enacted during the most recent regular session of the Texas Legislature. H.B. 1740 amended Texas Parks and Wildlife Code, §13.018, to require the department to issue a state parklands passport ("passport") at no charge to additional categories of persons.

Prior to the enactment of H.B. 1740, the department was required under Parks and Wildlife Code, §13.018, to issue a passport free of charge to qualified individuals, defined as Texas residents 65 years old or over; members of the United States armed forces on active duty who are 65 years old or over; veterans of the armed services of the United States who, as a result of military service, have a service-connected disability consisting of either the loss of the use of a lower extremity or a 60 percent disability rating and who are receiving compensation from the United States because of the disability; and individuals who have a physical or mental impairment that substantially limits one or more major life activities. H.B. 1740 amended Parks and Wildlife Code, §13.018 to include any person who is an honorably discharged veteran of the United States armed services, a member of the United States armed services on active duty, or the surviving spouse, parent, child, or sibling of a person who died while serving in the United States armed services. The proposed amendment would effect those changes in department

rules, while making changes as necessary to remove conflicts with existing rule language.

Tim Bradle, Director of State Parks Business Management, has determined that for each of the first five years that the rule as proposed is in effect, there will be fiscal implications to the department as a result of administering the rule; however, because the rule recapitulates statutory provisions that the commission cannot alter or eliminate, any fiscal impacts are the therefore the result of legislative action and not an action of the commission. There will be no fiscal implications to other units of state or local government.

There will be no effect on persons required to comply with the rule as proposed, as the rule does not mandate compliance by any person.

Mr. Bradle also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be rules that are consistent with the directives of the Texas Legislature.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that because the proposed rule affects only certain categories of visitors to state parks, there will be no direct effect on small businesses, micro-businesses, or rural communities. On this basis, the department has a determined that neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation; will expand an existing regulation (by creating new classes of persons eligible to receive a parklands passport at no charge); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Tim Bradle, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-8560; email: timothy.bradle@tpwd.texas.gov or via the department website at www.tpwd.texas.gov.

The amendment is proposed under Parks and Wildlife Code, §13.018, which requires the commission to establish by rule the eligibility requirements and privileges available to the holder of a state parklands passport.

The proposed amendment affects Parks and Wildlife Code, Chapter 13.

§59.3. *Park Entry Passes.*

Parks entry passes authorize entry privileges to parks where entry fees apply but are not valid for activity or other applicable fees.

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

(3) State Parklands Passport. A state parklands passport shall be issued at no cost to any person meeting the criteria established by Parks and Wildlife Code, §13.018. For the purposes of this paragraph, "accompanying" means entering a park simultaneously with the passport holder.

(A) (No change.)

(B) A state parklands passport issued to a person in a category listed in this subparagraph authorizes the entry of the person to any state park without payment of an individual entrance fee but does not waive or reduce the entrance fee for any person accompanying the passport holder:

(i) an honorably discharged veteran of the United States armed services;

(ii) a member of the United States armed services on active duty;

(iii) the surviving spouse, parent, child, or sibling of a person who died while serving in the United States armed services;

(C) [~~B~~] To be eligible for issuance of a state parklands passport under the provisions of Parks and Wildlife Code, §13.018(a)(3), a person must submit government-issued personal identification and one of the following:

(i) - (ii) (No change.)

(D) [~~C~~] A state parklands passport issued to a person in a category listed in this subparagraph who does not otherwise qualify under subparagraph (A) or (B) of this paragraph authorizes the entry of the person to any state park upon payment of 50% of the posted entrance fee for the park, rounded to the nearest higher whole dollar, which shall also apply to one person accompanying and providing assistance to the passport holder.

(i) a Texas resident whose birth date is after August 31, 1930; or

~~[(ii) a member of the United States armed forces on active duty who is 65 years old or over; or]~~

(ii) [(iii)] an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(E) [~~D~~] A parklands passport is nontransferable.

(F) [~~E~~] The department may collect a fee for a replacement state parklands passport.

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 July 10, 2023.

TRD-202302469

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



## CHAPTER 65. WILDLIFE

### SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

The Texas Parks and Wildlife Department proposes amendments to 31 TAC §§65.81, 65.82, and 65.99, concerning Disease Detection and Response.

The proposed amendments would function collectively to refine surveillance efforts as part of the agency's effort to manage chronic wasting disease (CWD).

Chronic wasting disease (CWD) is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (referred to collectively as susceptible species). It is classified as a TSE (transmissible spongiform encephalopathy), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE, found in cattle and commonly known as "Mad Cow Disease"), and variant Creutzfeldt-Jakob Disease (vCJD) in humans.

Much remains unknown about CWD, although robust efforts to increase knowledge are underway in many states and countries. The peculiarities of its transmission (how it is passed from animal to animal), infection rate (the frequency of occurrence through time or other comparative standard), incubation period (the time from exposure to clinical manifestation), and potential for transmission to other species are still being investigated. Currently, there is scientific evidence to suggest that CWD has zoonotic potential; however, no confirmed cases of CWD have been found in humans. Consequently, both the Centers for Disease Control and Prevention and the World Health Organization strongly recommend testing animals taken in areas where CWD exists, and if positive, recommend not consuming the meat. What is known is that CWD is invariably fatal to certain species of cervids and is transmitted both directly (through animal-to-animal contact) and indirectly (through environmental contamination). If CWD is not contained and controlled, the implications of the disease for Texas and its multi-billion-dollar ranching, hunting, wildlife management, and real estate economies could be significant.

The department has engaged in several rulemakings over the years to address the threat posed by CWD, including rules to designate a system of zones in areas where CWD has been confirmed or could reasonably be expected. The purpose of those CWD zones is to determine the geographic extent and prevalence of the disease while containing it by limiting the unnatural movement of live CWD-susceptible species as well as the movement of carcass parts.

The department's response to the emergence of CWD in captive and free-ranging populations is guided by the department's CWD Management Plan (Plan) <https://tpwd.texas.gov/huntwild/wild/diseases/cwd/plan.phtml>. Developed in 2012 in consultation with the Texas Animal Health Commission (TAHC), other governmental entities and conservation organizations, and various advisory groups consisting of landowners, hunters, deer managers, veterinarians, and epidemiologists, the Plan sets forth the department's CWD management strategies and informs regulatory responses to the detection of the disease in captive and free-ranging cervid populations in the state of Texas. The Plan is intended to be dynamic; in fact, it must be so in order to accommodate the growing understanding of the etiology, pathology, and epidemiology of the disease and the potential management pathways that emerge as it becomes better understood through time. The Plan proceeds from the premise that disease surveillance and active management of CWD once it is detected are absolutely critical to containing it on the landscape. Accordingly, the first step in the department's response to CWD detections is the timely establishment of management zones around locations where detection occurs. One type of management zone is the containment zone (CZ), defined by rule as "a department-defined geographic area in this state within which CWD has been detected or the department has determined, using the best available science and data, CWD detection is probable." Within a CZ, the movement of live deer is subject to restrictions and the presentation of harvested deer at a department check station is required. In addition, deer carcass movement restrictions set forth in §65.88 of Subchapter B, Division 1 apply. In addition to CZs, current rules provide for surveillance zones (SZs), defined by rule as "a department-defined geographic area in this state within which the department has determined, using the best available science and data, that the presence of CWD could reasonably be expected." Within a SZ, the movement of live deer is subject to restrictions and the presentation of harvested deer at a department check station is required. In addition, deer carcass movement restrictions set forth in §65.88 of Subchapter B, Division 1 apply.

The Texas Parks and Wildlife Commission recently directed staff to develop guidelines or a standard operating procedure (SOP) with respect to the establishment and duration of the various management zones. In cases where CWD is discovered in a deer breeding facility but not on associated release sites, the department will not establish a SZ if the following can be verified: 1) the disease was detected early (i.e., it has not been in the facility long); 2) the transmission mechanism and pathway are known; 3) the facility was promptly depopulated following detection; and 4) there is no evidence that free-ranging deer populations have been compromised. If any of these criteria is not satisfied, a SZ will be established to consist of all properties that are wholly or partially located within two miles of the property where the positive breeding facility is located. However, in situations where CWD is detected in a free-ranging deer that is epidemiologically linked with a CWD-positive breeding facility, the department has little choice but to formally impose a CZ in response. The SOP dictates that a CZ consist of all properties wholly or partially located within five miles of the property (or properties) where CWD was detected.

As noted previously in this preamble, the department has been engaged in a long-term effort to stem the spread of CWD; however, by 2021 it was apparent that more robust measures were

warranted because CWD was still being detected in additional deer breeding facilities, as well as release sites associated with deer breeding facilities. The commission adopted those rules, which require higher rates of testing, ante-mortem (live-animal) testing of breeder deer prior to release, and enhanced record-keeping and reporting measures, in December of 2021 (46 TexReg 8724). This year is the first full year of the applicability of those measures. The department notes that other rulemakings have enhanced provisions regarding carcass movement restrictions.

The proposed amendment to §65.81, concerning Containment Zones; Restrictions, would establish a new CZ 7 in Hunt and Kaufmann counties in response to recent detections of CWD in deer on release sites associated with a CWD-positive deer breeding facility. That facility is already within Surveillance Zone 7, which was created in response to the initial detection of CWD on that premise. On March 17, 2023, the department received confirmation that CWD was present on a release site associated with the CWD-positive deer breeding facility for which SZ 7 was created. Two additional positives have been detected on an associated release site in Kaufman County (a 4.5-year-old male and a 5.5-year-old male) that is epidemiologically linked to the CWD-positive breeding facility in Hunt County. The proposed amendment would also establish that the geographic areas described by the rule represent a five-mile radius surrounding each property where CWD has been detected, and that the zone includes all properties wholly or partially within those areas. The proposed amendment is intended to replace an emergency rule adopted on May 26, 2023 (June 16, 2003 issue of the *Texas Register*, (48 TexReg 3009)), which took effect immediately.

In addition, the proposed amendment would establish a new CZ in Bexar County (CZ 8). On May 25, 2023, the department received confirmation that a free-ranging deer (a 6.5-year-old female) killed pursuant to a TTP (Trap, Transfer, and Process) permit in Bexar County had tested positive for CWD.

The proposed amendment to §65.82, concerning Surveillance Zones; Restrictions, would establish new Surveillance Zone (SZ) 18 in Bexar County, new SZ 19 in Sutton County, new SZ 20 in Zavala County, new SZ 21 in Frio County, and new SZ 22 in Brooks County, all in response to the continued detection of CWD in deer breeding facilities. On May 3, 2023, the department received confirmation that a 3.75-year-old buck deer in a deer breeding facility in Sutton County had tested positive for CWD. In accordance with the department's CWD Management Plan and SOP, the department is establishing a SZ in a two-mile radius around the property where the Sutton County positive was detected. The proposed SZ in Bexar County is in response to the confirmation of CWD in Bexar County described earlier in this preamble in the discussion of the establishment of a CZ in Bexar County. On March 10, 2023, CWD was confirmed in three 2-year-old males within a deer breeding facility in Zavala County, and on April 5, 2023, CWD was confirmed in a 3-year-old male within a deer breeding facility in Frio County. On June 28, 2023, CWD was detected in a 2-year old female deer in Frio County and on July 7, 2023, CWD was detected in a 5-year-old female deer in a deer breeding facility in Brooks County. In keeping with the department's CWD Management Plan and the SOP, a SZ with a two-mile radius around each of those locations would be established by the proposed amendment. The department notes that confirmation of CWD by the diagnostic lab is a two-test process, intended to eliminate the possibility of a false positive. At the time the proposed amendment was submitted for publication, the department had not received confirmation of the sus-

pect test results for the deer breeding facilities in Frio and Brooks counties; therefore, if CWD is not confirmed in those breeding facilities, the proposed creation of SZ 21 and 22 would be withdrawn.

The proposed amendment also clarifies that the geographic areas described by the rule represent the two-mile radius around the property where CWD was detected, and that the zone includes all properties wholly or partially within those areas.

Finally, the proposed amendment would correct typographical errors in the published delineations for SZ 11, which was established in a previous rulemaking (48 TexReg 2048). As published, some of the coordinate pairs describing the SZ lacked the negative sign indicating that the locations being described are in the western hemisphere.

The proposed amendment to §65.99, concerning Breeding Facilities Epidemiologically Connected to Deer Infected with CWD, would add new subsection (j) to require the euthanization of breeder deer within seven days of notification of confirmation of a positive ante-mortem CWD test result, the submission of post-mortem tissue samples (accompanied by both ears and required ear tags) of such deer within one day of euthanization, and daily facility inspections (with any mortalities to be immediately reported to the department, and the collection and submission of post-mortem tissue samples from test-eligible mortalities within one business day of collection). The proposed amendment also would retitle the section to reflect its applicability to deer breeding facilities in which CWD has been detected. From an epidemiological perspective, it is important to definitively assess the progress of disease in an individual animal as quickly as possible in order to determine the temporal parameters of disease transmission in the population. Immediate euthanization and post-mortem testing of all animals that test positive via ante-mortem testing gives the department and the regulated community the best chance of ensuring that disease transmission is mitigated as soon as possible in a breeding facility. Similarly, the proposed requirement for daily inspections and immediate reporting and testing of mortalities is necessary to gain additional understanding of disease status within the facility. The proposed rule also would require the submission of both ears and the required identification tags in order for the department to definitively establish the unique identity of the deer in question for future epidemiological investigation. Under current rule, a facility that returns a positive test result is automatically designated "not movement qualified" (NMQ) and is prohibited from transferring deer in or out of the facility; therefore, the proposed amendment would repeat that requirement simply for clarity and emphasis.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state and local governments as a result of enforcing or administering the rules as proposed, as department personnel currently allocated to the administration and enforcement of disease management activities will administer and enforce the rules as part of their current job duties and resources.

Mr. Macdonald also has determined that for each of the first five years the amendments as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rules as proposed will be a reduction of the probability of CWD being spread from locations where it might exist and an increase in the probability of detecting CWD if it does exist, thus ensuring the

public of continued enjoyment of the resource and also ensuring the continued beneficial economic impacts of hunting in Texas.

There could be adverse economic impact on persons required to comply with the rules as proposed. Such impacts would be identical to those described in the analysis of the rules' potential effect on small businesses, microbusinesses, and rural communities elsewhere in this preamble.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. These guidelines state that "[g]enerally, there is no need to examine the indirect effects of a proposed rule on entities outside of an agency's regulatory jurisdiction." The guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. The guidelines also list examples of the types of costs that may result in a "direct economic impact." Such costs may include costs associated with additional recordkeeping or reporting requirements; new taxes or fees; lost sales or profits; changes in market competition; or the need to purchase or modify equipment or services.

For the purposes of this analysis, the department considers all deer breeders to be small or microbusinesses, which ensures that the analysis captures all deer breeders possibly affected by the proposed rulemaking. The department has determined that there is one deer breeding facility (other than the breeding facilities where CWD has been detected, which are prohibited from transferring deer under other rules) within proposed CZ 7. That deer breeding facility is currently designated MQ. Under the rule as proposed, that facility would be prohibited from transferring breeder deer outside the CZ; therefore, the economic impact to the breeder in question could be significant. Because the nature of the market for breeder deer is fluid and the department does not require sale prices of breeder deer to be reported, the department has no way to determine the exact value of lost sales to the deer breeder in question. Department records indicated the breeder in question has transferred an average of 53 deer per year, with an average of 17 of those deer being released to adjoining acreage (which would still be permitted). Therefore, the adverse economic impact to the breeder in question, based on the transfer history of the last five years, would be the value of 35 deer per year. There are three deer breeding facilities located within proposed new SZ 20 and one deer breeding facility located within proposed new SZ 21. All four facilities are currently designated NMQ and are prohibited from transferring deer. Thus, the zone designations will not result in adverse economic impacts to those facilities, as they cannot transfer deer under rules currently in effect. There are no deer breeding facilities within proposed CZ 8 or SZ 22.

The proposed amendment to §65.99 will result in adverse economic impacts to small businesses and microbusinesses affected by the rule. The amendment would require deer breeders who receive confirmation of a "suspect" test result from an ante-mortem test to euthanize the subject of the test within seven days of confirmation of CWD, submit post-mortem tissue samples within one business day of euthanasia, conduct daily

inspections for additional mortalities, immediately report such mortalities, and collect and submit post-mortem tissue samples within one day of each mortality discovery. Deer breeders are already required under current rules to report all mortalities and to have them tested; therefore, the adverse economic impacts are the cost to euthanize a breeder deer and the cost of daily inspections. The cost of euthanizing a deer can range from very little (if the breeder dispatches a deer by firearm) to the costs associated with veterinary services, which the department estimates should not exceed \$300. The costs associated with daily inspections is difficult to quantify, as breeder facilities vary in size and complexity; however, the department assumes that most breeding facilities require some sort of daily presence as a matter of routine operations. The department also notes that if the breeding facility is epidemiologically connected to another breeding facility, daily inspections are required under rules already in effect.

The department has determined that the proposed rules will not affect rural communities because the rules do not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not result in direct impacts to local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules. Any impacts resulting from the discovery of CWD in or near private real property would be the result of the discovery of CWD and not the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; not create a new regulation; expand an existing regulation (by creating new areas subject to the rules governing CZs and SZs) and imposing new inspection and reporting requirements for deer breeding facilities where CWD is detected), but will otherwise not limit or repeal an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rules may be submitted to Dr. J. Hunter Reed, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (830) 890-1230 (e-mail: [jhunter.reed@tpwd.texas.gov](mailto:jhunter.reed@tpwd.texas.gov)); or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

## DIVISION 1. CHRONIC WASTING DISEASE (CWD)

### 31 TAC §65.81, §65.82

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological col-

lection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapters R and R-1, which authorize the commission to establish the conditions of a deer management permit for white-tailed and mule deer, respectively; and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, R, R-1, and Chapter 61.

#### §65.81. Containment Zones; Restrictions.

The areas described in paragraph (1) of this section are CZs and the provisions of this subchapter applicable to CZs apply on all properties lying wholly or partially within the described areas.

##### (1) Containment Zones.

###### (A) - (F) (No change.)

(G) Containment Zone 7 is that portion of Hunt and Kaufman counties		
-96.20861492790,	32.93062271340;	-96.20769578840,
32.93067232720;	-96.20732503750,	32.93068140220;
-96.20710298860,	32.93068643390;	-96.20688260170,
32.93070985230;	-96.20442195490,	32.93094106890;
-96.19879387970,	32.93124448120;	-96.19315431390,
32.93123658430;	-96.18752746450,	32.93091741310;
-96.18193748280,	32.93028833640;	-96.17640835920,
32.92935205410;	-96.17096382300,	32.92811258320;
-96.16562723700,	32.92657524440;	-96.16042149880,
32.92474663220;	-96.15536893750,	32.92263459410;
-96.15049122610,	32.92024819270;	-96.14580927730,
32.91759766400;	-96.14134316220,	32.91469438080;
-96.13711201920,	32.91155079520;	-96.13622641360,
32.91083798810;	-96.12494000920,	32.90162215750;
-96.12184819660,	32.89896427870;	-96.11814108320,
32.89538116920;	-96.11471996870,	32.89160108390;
-96.11159948660,	32.88764023130;	-96.10879297770,
32.88351559240;	-96.10631243170,	32.87924484870;
-96.10416843710,	32.87484630590;	-96.10237013300,
32.87033881570;	-96.10092517700,	32.86574169180;
-96.09983970690,	32.86107463220;	-96.09911831850,
32.85635762960;	-96.09876404670,	32.85161088910;
-96.09877835310,	32.84685473910;	-96.09916111900,
32.84210954720;	-96.09991065180,	32.83739562930;
-96.10102368600,	32.83273316520;	-96.10249540400,
32.82814211180;	-96.10431945490,	32.82364211740;
-96.10648798380,	32.81925243920;	-96.10899166580,
32.81499185700;	-96.1181974410,	32.81087859810;
-96.11496008310,	32.80693025770;	-96.11746988050,
32.80418152580;	-96.11755375850,	32.80313866560;
-96.11830205020,	32.79842452110;	-96.11941370220,
32.79376178180;	-96.12088390310,	32.78917040460;
-96.12270630810,	32.78467004060;	-96.12487306900;
32.78027994610;	-96.12737486880,	32.77601890420;
-96.13020095860,	32.77190514530;	-96.13333921120,
32.76795626360;	-96.13677616560,	32.76418915010;
-96.14049708990,	32.76061991450;	-96.14361588300,
32.75795916770;	-96.15030201320,	32.75254081800;
-96.15117207400,	32.75184542080;	-96.15541150690;
32.74871658500;	-96.15988374280,	32.74582860110;



-96.16456964780, 32.74319381590; -96.16944917580,  
 32.74082348990; -96.17450146100, 32.73872775390;  
 -96.17970490330, 32.73691556600; -96.18503725980,  
 32.73539466850; -96.19047574170, 32.73417156270;  
 -96.19599710870, 32.73325147350; -96.20157776980,  
 32.73263833370; -96.20719388130, 32.73233476210;  
 -96.21282145100, 32.73234205650; -96.21843643660,  
 32.73266018450; -96.22401484850, 32.73328778900;  
 -96.22953285300, 32.73422218640; -96.23496687420,  
 32.73545938460; -96.24029369090, 32.73699409660;  
 -96.24549053580, 32.73881976530; -96.25053519730,  
 32.74092858740; -96.25540610540, 32.74331155160;  
 -96.26008243080, 32.74595847130; -96.26454416980,  
 32.74885803400; -96.26877223170, 32.75199784510;  
 -96.27208130510, 32.75476813650; -96.27799411370,  
 32.75999311670; -96.27866140080, 32.76058942750;  
 -96.28236931730, 32.76416831370; -96.28579254530,  
 32.76794433860; -96.28891640880, 32.77190135380;  
 -96.29172751230, 32.77602243590; -96.29421378790,  
 32.78028995730; -96.29636455620, 32.78468566000;  
 -96.29817056660, 32.78919073740; -96.29875523030,  
 32.79103915710; -96.30070745700, 32.79319136250;  
 -96.30383279710, 32.79714795770; -96.30664531710,  
 32.80126865130; -96.30913294620, 32.80553581930;  
 -96.31128499780, 32.8093120460; -96.31309221600,  
 32.81443600310; -96.31454681730, 32.81903093620;  
 -96.31564252520, 32.82369633930; -96.31637459490,  
 32.82841224380; -96.31673983750, 32.83315846000;  
 -96.31673663320, 32.83791466760; -96.31636493980,  
 32.84266049980; -96.31562629240, 32.84737563000;  
 -96.31452380180, 32.85203986300; -96.31306213460,  
 32.85663321610; -96.31124750240, 32.86113600910;  
 -96.30908763030, 32.86552894730; -96.30659172920,  
 32.86979320330; -96.30377045070, 32.87391049840;  
 -96.30063584940, 32.87786318330; -96.29720132590,  
 32.88163431140; -96.29348157340, 32.88520771270;  
 -96.29102813830, 32.88732618450; -96.29072578630,  
 32.88757682010; -96.29043695640, 32.88783856420;  
 -96.29021473660, 32.88803918230; -96.28898762250,  
 32.88912027080; -96.28892071110, 32.88917801630;  
 -96.28887164860, 32.88924735580; -96.28802188640,  
 32.89042285420; -96.28488606370, 32.89437511830;  
 -96.28145029560, 32.89814579130; -96.27772928230,  
 32.90171870520; -96.27373894810, 32.90507853810;  
 -96.27180336870, 32.90655908120; -96.27029016770,  
 32.90768169600; -96.26798312600, 32.90933346730;  
 -96.26474342810, 32.91146467440; -96.26351249540,  
 32.91223529260; -96.26129110250, 32.91365865860;  
 -96.25928416460, 32.91490633490; -96.25509793200,  
 32.91727764030; -96.25374718090, 32.91799526420;  
 -96.25163781920, 32.91914104360; -96.25040063630,  
 32.91980056680; -96.24551380660, 32.92217362860;  
 -96.24045318480, 32.92427184950; -96.23524047500,  
 32.92608622810; -96.22989803890, 32.92760897730;  
 -96.22444879930, 32.92883356430; -96.21891613860,  
 32.92975473360; and -96.21356759520, 32.93034177510.

(H) Containment Zone 8. Containment Zone 8 is that portion of Bexar County within the boundaries of a line beginning at the intersection of Bitters Road and U.S. Highway 281 in Bexar County; thence north along U.S. 281 to State Highway (SH) North Loop 1604; thence west along SH North Loop 1604 to Blanco Road; thence south along Blanco Road to Bitters Road; thence east to U.S. Highway 281.

(I) [(G)] Existing CZs may be modified and additional CZs may be designated as necessary by the executive director as provided in §65.84 of this title (relating to Powers and Duties of the Executive Director).

(2) (No change.)

§65.82. *Surveillance Zones; Restrictions.*

The areas described in paragraph (1) of this section are SZs and the provisions of this subchapter applicable to SZs apply on all properties lying wholly or partially within the described areas.

(1) Surveillance Zones.

(A) - (J) (No change.)

(K) Surveillance Zone 11. SZ 11 is that portion of Uvalde County lying within the area described by the following latitude-longitude coordinate pairs: -99.65125892840, 29.37997244440; -99.64901351840, 29.37941401480; -99.64845146960, 29.37926298170; -99.64642007180, 29.37858685430; -99.64444354350, 29.37779577780; -99.64253035400, 29.37689314240; -99.64068870050, 29.37588281650; -99.63892647290, 29.37476913010; -99.63725121990, 29.37355685560; -99.63567011690, 29.37225118790; -99.63418993490, 29.37085772200; -99.63281701150, 29.36938242860; -99.63155722420, 29.36783162880; -99.63041596490, 29.36621196710; -99.62939811680, 29.36453038250; -99.62890579820, 29.36359183460; -99.62806121330, 29.36305789800; -99.62638629870, 29.36184548510; -99.62480553320, 29.36053968750; -99.62429303370, 29.36007754550; -99.62405653320, 29.35964253520; -99.62381874180, 29.35860163960; -99.62135950160, 29.35712622890; -99.62010005700, 29.35557532250; -99.61895913350, 29.35395556520; -99.61873659380, 29.35360972870; -99.61862150420, 29.35209215220; -99.61782652640, 29.351693676500; 29.35035577580; -99.61617856340, 29.34857213070; -99.61555516190, 29.34674885720; -99.61506922320, 29.34489376500; -99.61503820540, 29.34475276260; -99.61494624750, 29.34432910810; -99.61463086570, 29.34259114510; -99.61442547730, 29.34069635380; -99.61436197100, 29.33879385100; -99.61444061050, 29.33689178380; -99.61466105070, 29.33499829680; -99.61487321080, [99.61487321080], 29.33380912050; -99.61491150300, 29.33362019190; -99.61506063110, 29.33293256890; -99.61556121170, 29.33108049280; -99.61619893460, 29.32926106910; -99.61697106210, 29.32748208660; -99.61732421150, 29.32676913270; -99.61746690720, 29.32649127370; -99.61801697400, 29.32547330120; -99.61904740670, 29.32379784010; -99.61962570840, [99.61962570840], 29.32244439010; -99.62295977640, -99.61999500570, 29.32244439010; -99.62056993200, 29.32166962830; -99.62184101280, 29.32012634080; -99.62322450720, 29.31865919800; -99.62471448910, [99.62471448910], 29.31727447850; -99.62532991110, 29.31675242370; -99.62534908130, 29.31673657650; -99.62536140450, 29.31671616190; -99.62601184830, 29.31568933250; [99.62716487040], 29.31407645020; -99.62843574650, 29.31253310120; -99.62981903270, 29.31106589070; -99.63130880370, 29.30968109780; -99.63289867970, 29.30838464850; -99.63458185310, [99.63458185310], 29.30607857030; -99.63635111800, 29.30718209080; -99.63635111800, 29.30507880900; -99.63819890080, 29.30418708460; -99.64209808410, 29.30340721240;

-99.64413279780, [99.64413279780], 29.30274252910;  
 -99.64621272750, 29.30219587850; -99.64832897350;  
 29.30176959930; -99.65047248120, 29.30146551530;  
 -99.65263407970, 29.30128492740; -99.65480452090  
 [99.65480452090], 29.30122860820; -99.65487587710,  
 29.30122887060; -99.65900846590, 29.30124789310;  
 -99.66110711120, 29.30131575240; -99.66326739090,  
 29.30150809000; -99.66540870640, [99.66540870640],  
 29.30182382290; -99.66752189610, 29.30226160050;  
 -99.66959791860, 29.30281954970; -99.67162789070,  
 29.30349528360; -99.67360312630, 29.30428591090;  
 -99.67551517240, 29.30518804900; -99.67735584590,  
 29.30619783800; -99.67911726860, 29.30731095730;  
 -99.67954559440, 29.307656313490, -99.67956313490,  
 29.30761798010; -99.67958463450, [99.67958463450],  
 29.30762363200; -99.68080891950, 29.30796826400;  
 -99.68283907760, 29.30864381890; -99.68481450940,  
 29.30943427250; -99.68672676130, 29.31033624270;  
 -99.68856764940, [99.68856764940], 29.31134587030;  
 -99.69032929430, 29.31245883550; -99.69200415500,  
 29.31367037590; -99.69358506110, 29.31497530720;  
 -99.69506524350, 29.31636804540; -99.69643836310,  
 [99.69643836310], 29.31784263020; -99.69769853840,  
 29.31939275110; -99.69884037040, 29.32101177380;  
 -99.69985896580, 29.32269276880; -99.70074995830,  
 29.32442854090; -99.70150952680, [99.70150952680],  
 29.32621166020; -99.70213441260, 29.32803449350;  
 -99.70262193270, 29.32988923730; -99.70296999200,  
 29.33176795100; -99.70316258900, 29.33347053880;  
 -99.70358951980, 29.33885327800; -99.70360402460,  
 29.33904533040; -99.70366928260, 29.34094778790;  
 -99.70359239080, 29.34284991320; -99.7037367010,  
 29.34474356080; -99.70306776070, 29.34634027440;  
 -99.70321386810, 29.35078287580; -99.70322752220,  
 29.35169864370; -99.70315061320, 29.35360077700;  
 -99.70293185960, 29.35549443210; -99.70257218990,  
 29.35737149930; -99.70207313650, 29.35922393950;  
 -99.70143682890, 29.36104381850; -99.70066598480,  
 29.36282334130; -99.69976389890, 29.36455488500;  
 -99.69873442870, 29.36623103210; -99.69758197780,  
 29.36784460200; -99.69631147760, 29.36938868150;  
 -99.69492836580, 29.37085665520; -99.69343856370,  
 29.37224223310; -99.69184845020, 29.37353947830;  
 -99.69016483510, 29.37474283200; -99.68839492950,  
 29.37584713740; -99.68654631520, 29.37684766210;  
 -99.68462691200, 29.37774011850; -99.68264494370,  
 29.37852068160; -99.68060890300, 29.37918600620;  
 -99.67852751480, 29.37973324070; -99.67640969900,  
 29.38016003970; -99.67426453180, 29.38046457390;  
 -99.67210120720, 29.38064553800; -99.66992899700,  
 29.38070215650; -99.66982079290, 29.38070171930;  
 -99.66706723200, 29.38068663350; -99.65998003010,  
 29.38082841100; -99.65912069230, 29.38083583350;  
 -99.65694891120, 29.38076767780; -99.65478687690,  
 29.38057522580; -99.65264385560, 29.38025930250; and  
 -99.65125892840, 29.37997244440.

(L) - (Q) (No change.)

(R) Surveillance Zone 18. Surveillance Zone 18 is that portion of Bexar County within the boundaries of a line beginning at the intersection of Northwest Military Highway (FM 1535) and Interstate Highway (IH) Loop 410 in Bexar County; thence east along IH-Loop 410 to Wetmore Road; thence north along Wetmore Road to Bulverde Road; thence north along Bulverde Road to Evans Road; thence west

along Evans Road to Stone Oak Parkway; thence west and south along Stone Oak Parkway to Huebner Road; thence west along Huebner Road to Northwest Military Highway; thence south along Northwest Military Highway (FM 1535) to IH-Loop 410.

(S) Surveillance Zone 19. Surveillance Zone 19 is that portion of Sutton County lying within the area described by the following latitude/longitude pairs: -100.38319766000, 30.44241372940;  
 -100.38330542300, 30.44241355570; -100.42117692500,  
 30.44239956000; -100.42326548900, 30.44245479520;  
 -100.42545296700, 30.44263413320; -100.42762223700,  
 30.44293701230; -100.42976401700, 30.44336213680;  
 -100.43186914400, 30.44390768770; -100.43392861100,  
 30.44457133100; -100.43593360500, 30.44535022730;  
 -100.43787554600, 30.44624104410; -100.43974612300,  
 30.44723996980; -100.44153733100, 30.44834273020;  
 -100.44324150100, 30.44954460660; -100.44485133800,  
 30.45084045600; -100.44635994800, 30.45222473320;  
 -100.44776087200, 30.45369151420; -100.44904810900,  
 30.45523452170; -100.45021614400, 30.45684715180;  
 -100.45125997100, 30.45852250230; -100.45217511600,  
 30.46025340220; -100.45295765400, 30.46203244240;  
 -100.45360422900, 30.46385200730; -100.45411206400,  
 30.46570430720; -100.45447897800, 30.46758141210;  
 -100.45470339000, 30.46947528510; -100.45478433200,  
 30.47137781700; -100.45472144800, 30.47328086130;  
 -100.45452752600, 30.47509012860; -100.45391299100,  
 30.47936729020; -100.45390046300, 30.47945343010;  
 -100.45383755000, 30.47985820110; -100.45350524000,  
 30.48188828820; -100.45321897700, 30.48336316860;  
 -100.45309954100, 30.48387046470; -100.45255326700,  
 30.48608960620; -100.45218229600, 30.48743815460;  
 -100.45155276100, 30.48926224410; -100.45078679300,  
 30.49104676600; -100.45024507000, 30.49209451190;  
 -100.45054879400, 30.49222514900; -100.45092965400,  
 30.49239158080; -100.45533277600, 30.49434604980;  
 -100.45664103400, 30.49495875510; -100.46097526200,  
 30.49709718790; -100.46102130400, 30.49711994450;  
 -100.46104970100, 30.49713402160; -100.46429912600,  
 30.49874659450; -100.46433065100, 30.49876225840;  
 -100.46740035400, 30.50028933730; -100.47058121400,  
 30.50183564040; -100.47080956300, 30.50194766020;  
 -100.47091030500, 30.50199773150; -100.47301193500,  
 30.50304645410; -100.47478324300, 30.50399480050;  
 -100.47657591500, 30.50509707320; -100.47828153400,  
 30.50629848620; -100.4798279800, 30.50759389830;  
 -100.48020479900, 30.50786526470; -100.48113280600,  
 30.50868308970; -100.48233083700, 30.50979558270;  
 -100.48373315400, 30.51126197420; -100.48502174400,  
 30.51280462430; -100.48619108600, 30.51441693080;  
 -100.48627724200, 30.51454558530; -100.48669784200,  
 30.51517736790; -100.48812543000, 30.51648543510;  
 -100.48952793300, 30.51795176350; -100.49081670600,  
 30.51949435570; -100.49198622700, 30.52110660970;  
 -100.49303148500, 30.52278162490; -100.49394799900,  
 30.52451223180; -100.49473183900, 30.52629102250;  
 -100.49537964100, 30.52811038240; -100.49588862500,  
 30.52996252280; -100.49625660300, 30.53183951430;  
 -100.49633886400, 30.53240339680; -100.49634171900,  
 30.53242463760; -100.49635288800, 30.53244371130;  
 -100.49645111000, 30.53261281470; -100.49736778000,  
 30.53434339780; -100.49815176300, 30.53612216840;  
 -100.49879969700, 30.53794151170; -100.49930879900,  
 30.53979363930; -100.49967688300, 30.54167062170;  
 -100.49989414400, 30.54346534740; -100.49989542400,

30.54348042090; -100.49990473300, 30.54349320810;  
 -100.50049997100, 30.54434266150; -100.50154563100,  
 30.54601760880; -100.50246252100, 30.54774815650;  
 -100.50324670900, 30.54952689680; -100.50389483000,  
 30.55134621530; -100.50440410300, 30.55319832370;  
 -100.50477233700, 30.55507529240; -100.50499794900,  
 30.55696908540; -100.50507923900, 30.55877167030;  
 -100.50510179400, 30.56121144760; -100.50564283800,  
 30.56223237970; -100.50642720400, 30.56401110150;  
 -100.50707548400, 30.56583040490; -100.50758489400,  
 30.56768250160; -100.50795324700, 30.56955946220;  
 -100.50817895600, 30.57145325050; -100.50826104700,  
 30.57335575780; -100.50826117100, 30.57338156720;  
 -100.50828404600, 30.57872056140; -100.50828266100,  
 30.57911369590; -100.50822253200, 30.58441891900;  
 -100.50824688900, 30.59493311160; -100.50818470000,  
 30.59676084350; -100.50797904400, 30.59865634740;  
 -100.50763050500, 30.60053615670; -100.50714057000,  
 30.60239220500; -100.50651132600, 30.60421658940;  
 -100.50574546300, 30.60600144900; -100.50484625200,  
 30.60773915390; -100.50381753900, 30.60942226020;  
 -100.50266372500, 30.61104355740; -100.50138974500,  
 30.61259609970; -100.50000105200, 30.61407323520;  
 -100.49850359200, 30.61546863510; -100.49690377700,  
 30.61677632020; -100.49520845600, 30.61799068730;  
 -100.49342489200, 30.61910653240; -100.49156072400,  
 30.62011907390; -100.48962393900, 30.62102397260;  
 -100.48762283600, 30.62181735040; -100.48556598800,  
 30.62249580710; -100.48346221100, 30.62305643500;  
 -100.48132052000, 30.62349683140; -100.47915009300,  
 30.62381510870; -100.47696023300, 30.62400990270;  
 -100.47476032500, 30.62408037860; -100.47472254900,  
 30.62408050040; -100.44498450900, 30.62415852420;  
 -100.44282177400, 30.62410375530; -100.44063011400,  
 30.62392471330; -100.43845670000, 30.62362205270;  
 -100.43631084600, 30.62319707060; -100.43420174800,  
 30.62265158850; -100.43213844700, 30.62198794420;  
 -100.43012978200, 30.62120898200; -100.42818436200,  
 30.62031804030; -100.42631052100, 30.61931893740;  
 -100.42451628800, 30.61821595490; -100.42280934900,  
 30.61701381930; -100.42119701500, 30.61571768220;  
 -100.41968619100, 30.61433309750; -100.41828334600,  
 30.61286599790; -100.41699448400, 30.61132266930;  
 -100.41582512400, 30.60970972410; -100.41478026800,  
 30.60803407260; -100.41386438700, 30.60630289320;  
 -100.41308139500, 30.60452360190; -100.41243464000,  
 30.60270382040; -100.41192688500, 30.60085134330;  
 -100.41156029500, 30.59897410500; -100.41133643300,  
 30.59708014530; -100.41125624900, 30.59517757510;  
 -100.41125613600, 30.59499196440; -100.41125854200,  
 30.59420991440; -100.41110919100, 30.59408980140;  
 -100.40959885400, 30.59270509820; -100.40819648000,  
 30.59123788870; -100.40690807300, 30.58969445940;  
 -100.40573914700, 30.58808142290; -100.40469470400,  
 30.58640568990; -100.40377921200, 30.58467443920;  
 -100.40299658500, 30.58289508720; -100.40235016800,  
 30.58107525580; -100.40214445600, 30.58038747370;  
 -100.40214118900, 30.58037597300; -100.40213092100,  
 30.58036814140; -100.40067662700, 30.57919085870;  
 -100.39916667600, 30.57780603290; -100.39776468000,  
 30.57633870970; -100.39647664200, 30.57479517590;  
 -100.39530807400, 30.57318204480; -100.39490813600,  
 30.57254771140; -100.39343371700, 30.57234174320;  
 -100.39128921200, 30.57191600640; -100.38918150200,

30.57136978270; -100.38711961700, 30.57070541320;  
 -100.38511239500, 30.56992574530; -100.38316843600,  
 30.56903412020; -100.38250341300, 30.56869570240;  
 -100.38187530900, 30.56836761670; -100.38066797400,  
 30.56770626780; -100.37887523500, 30.56660264670;  
 -100.37716978900, 30.56539990390; -100.37555894300,  
 30.56410319350; -100.37404959300, 30.56271807190;  
 -100.37264820300, 30.56125047400; -100.37136077300,  
 30.55970668810; -100.37019281200, 30.55809332830;  
 -100.36914931800, 30.55641730670; -100.36900755400,  
 30.55616761220; -100.36900235600, 30.55615834480;  
 -100.36899156300, 30.55615400070; -100.36839999400,  
 30.55590980050; -100.366456647500, 30.55501792180;  
 -100.36458455700, 30.55401791670; -100.36279226000,  
 30.55291407060; -100.36108726000, 30.55171111400;  
 -100.35947686100, 30.55041420160; -100.35796796000,  
 30.54902889080; -100.35656701700, 30.54756111750;  
 -100.35528003000, 30.54601717040; -100.35411250700,  
 30.54440366460; -100.35306944400, 30.54272751270;  
 -100.35215530300, 30.54099589540; -100.35127399200,  
 30.53921623050; -100.35072885100, 30.53739614120;  
 -100.35022263600, 30.53554342360; -100.34985750600,  
 30.53366601300; -100.34963501600, 30.53177195000;  
 -100.34956251500, 30.53035267880; -100.34950933200,  
 30.52802466460; -100.34950292900, 30.52754133180;  
 -100.34951779300, 30.52657937390; -100.34955057300,  
 30.52563084750; -100.34958794400, 30.52191021560;  
 -100.34949165600, 30.51758389540; -100.34948675000,  
 30.51728228350; -100.34946547600, 30.51521227780;  
 -100.34946431400, 30.51504532100; -100.34952931600,  
 30.51314232480; -100.34973719200, 30.51125373430;  
 -100.34968365200, 30.50474357910; -100.34968296800,  
 30.50462837800; -100.34968286100, 30.50448127570;  
 -100.34970783100, 30.49307201500; -100.34972638900,  
 30.47148975220; -100.34979151500, 30.46970039620;  
 -100.35000002300, 30.46780515970; -100.35035117000,  
 30.46592579320; -100.35084344400, 30.46407034340;  
 -100.35147473000, 30.46224675380; -100.35224231700,  
 30.46046283130; -100.35314291200, 30.45872621260;  
 -100.35417265300, 30.45704433130; -100.35532712400,  
 30.45542438630; -100.35660138000, 30.45387331130;  
 -100.35798996000, 30.45239774460; -100.35948691700,  
 30.45100400120; -100.36108583900, 30.44969804550;  
 -100.36277988100, 30.44848546630; -100.36456179000,  
 30.44737145220; -100.36642393900, 30.44636077010;  
 -100.36835835600, 30.44545774450; -100.37035676400,  
 30.44466623930; -100.37241061000, 30.44398964090;  
 -100.37451110500, 30.44343084410; -100.37664926300,  
 30.44299223980; -100.37881593500, 30.44267570450;  
 -100.38100185200, 30.44248259220; and -100.38319766000,  
 30.44241372940.

(T) Surveillance Zone 20. Surveillance Zone 20 is that portion of Zavala County lying within the area described by the following latitude/longitude pairs: -99.52095361740, 28.97441019490; -99.52311623060, 28.97448067590; -99.52526897870, 28.97467534550; -99.52740265120, 28.97499337100; -99.52950811930, 28.97543339180; -99.53157637450, 28.97599352540; -99.53359856710, 28.97667137530; -99.53556604390, 28.97746404140; -99.53747038530, 28.97836813240; -99.53930344110, 28.97937977980; -99.54079805130, 28.98031997940; -99.54725023520, 28.98462158470; -99.54750957250, 28.98479624760; -99.54785821340, 28.98503676640; -99.54985879760, 28.98643601770; -99.55117763500, 28.98740872890;

-99.55275134850, 28.98871522560, -99.55422454890,  
28.99010940370, -99.55559092700, 28.99158529700,  
-99.55684463020, 28.99313658910, -99.55798028710,  
28.99475664080, -99.55899303100, 28.99643851830,  
-99.55987852050, 28.99817502260, -99.56063295830,  
28.99995872050, -99.56125310750, 29.00178197670,  
-99.56133033930, 29.00204439980, -99.56133273200,  
29.00205268890, -99.56134113470, 29.00205699800,  
-99.56316032010, 29.00306084540, -99.56491494500,  
29.00417540170, -99.56658293370, 29.00538843320,  
-99.56815714520, 29.00669474920, -99.56963083870,  
29.00808875970, -99.57099770330, 29.00956449910,  
-99.57225188400, 29.01111565180, -99.57338800760,  
29.01273557930, -99.57440120520, 29.01441734800,  
-99.57528713360, 29.01615375970, -99.57604199350,  
29.01793738150, -99.57666254630, 29.01976057820,  
-99.57714612760, 29.02161554480, -99.57749065930,  
29.02349433950, -99.57769465810, 29.02538891840,  
-99.57775724230, 29.02729116930, -99.57772470190,  
29.02847435840, -99.57699091100, 29.04294971910,  
-99.57694433240, 29.04366831230, -99.57672381830,  
29.04556148440, -99.57636285890, 29.04743793060,  
-99.57586299210, 29.04928961410, -99.57522635090,  
29.05110860430, -99.57445565480, 29.05288710960,  
-99.57355419770, 29.05461751170, -99.57252583440,  
29.05629239790, -99.57137496390, 29.05790459290,  
-99.57010651080, 29.05944718950, -99.56872590420,  
29.06091357850, -99.56723905460, 29.06229747690,  
-99.56565232830, 29.06359295460, -99.56397252060,  
29.06479446060, -99.56220682630, 29.06589684590,  
-99.56036280920, 29.06689538650, -99.55844836940,  
29.06778580290, -99.55647170940, 29.06856427920,  
-99.55444129910, 29.06922747890, -99.55236583940,  
29.06977255960, -99.55025422470, 29.07019718500,  
-99.54811550470, 29.07049953530, -99.54595884550,  
29.07067831450, -99.54379349060, 29.07073275620,  
-99.54368347780, 29.07073219700, -99.54367904450,  
29.07073216800, -99.54367063640, 29.07073211210,  
-99.54160516640, 29.07071811880, -99.54160514960,  
29.07071811870, -99.52332601820, 29.07059281150,  
-99.52135033460, 29.07057910890, -99.52004080320,  
29.07057000940, -99.51799445770, 29.07050011140,  
-99.51583960170, 29.07030530790, -99.51370387460,  
29.06998707100, -99.51159642960, 29.06954676480,  
-99.50952629870, 29.06898627650, -99.50750235340,  
29.06830800830, -99.50553326650, 29.06751486720,  
-99.50362747560, 29.06661025240, -99.50179314610,  
29.06559804090, -99.50003813640, 29.06448257060,  
-99.49836996440, 29.06326862160, -99.49679577500,  
29.06196139610, -99.49532230960, 29.06056649560,  
-99.49395587710, 29.05908989710, -99.49270232710,  
29.05753792740, -99.49156702490, 29.05591723590,  
-99.49055482810, 29.05423476600, -99.48967006650,  
29.05249772550, -99.48891652330, 29.05071355550,  
-99.48829741880, 29.04888989860, -99.48781539740,  
29.04703456610, -99.48747251550, 29.04515550450,  
-99.48727023360, 29.04326076130, -99.48720908600,  
29.04153365310, -99.48714960630, 29.00389591390,  
-99.48714992990, 29.00372071510, -99.48723078590,  
29.00181901970, -99.48745294280, 28.99992604640,  
-99.48781544110, 28.99804990050, -99.48831672060,  
28.99619861470, -99.48895462750, 28.99438011460,  
-99.48972642320, 28.99260218540, -99.49062879650,  
28.99087243770, -99.49165787810, 28.98919827580;

-99.49280925660, 28.98758686540, -99.49407799810,  
28.98604510340, -99.49545866710, 28.98457958820,  
-99.49694534970, 28.98319659170, -99.49853167920,  
28.98190203210, -99.50021086350, 28.98070144930,  
-99.50114533140, 28.98009924160, -99.50172517340,  
28.97973911690, -99.50255554970, 28.97923985210,  
-99.50439849840, 28.97824220210, -99.50631167050,  
28.97735264740, -99.50828687840, 28.97651499420,  
-99.51031566940, 28.97591256950, -99.51238936210,  
28.97536820760, -99.51449908360, 28.97494423730,  
-99.51663580730, 28.97464247240, -99.51879039130,  
28.97446420410; and -99.52095361740, 28.97441019490.

(U) Surveillance Zone 21. Surveillance Zone 21 is that portion of Frio County lying within the area described by the following latitude/longitude pairs: -99.52095361740, 28.97441019490, -99.52311623060, 28.97448067590, -99.52526897870, 28.97467534550, -99.52740265120, 28.97499337100, -99.52950811930, 28.97543339180, -99.53157637450, 28.97599352540, -99.53359856710, 28.97667137530, -99.53556604390, 28.97746404140, -99.53747038530, 28.97836813240, -99.53930344110, 28.97937977980, -99.54079805130, 28.98031997940, -99.54275023520, 28.98462158470, -99.54750957250, 28.98479624760, -99.54785821340, 28.98503676640, -99.54985879760, 28.98643601770, -99.55117763500, 28.98740872890, -99.55275134850, 28.98871522560, -99.55422454890, 28.99010940370, -99.55559092700, 28.99158529700, -99.55684463020, 28.99313658910, -99.55798028710, 28.99475664080, -99.55899303100, 28.99643851830, -99.55987852050, 28.99817502260, -99.56063295830, 28.99995872050, -99.56125310750, 29.00178197670, -99.56133033930, 29.00204439980, -99.56133273200, 29.00205268890, -99.56134113470, 29.00205699800, -99.56316032010, 29.00306084540, -99.56491494500, 29.00417540170, -99.56658293370, 29.00538843320, -99.56815714520, 29.00669474920, -99.56963083870, 29.00808875970, -99.57099770330, 29.00956449910, -99.57225188400, 29.01111565180, -99.57338800760, 29.01273557930, -99.57440120520, 29.01441734800, -99.57528713360, 29.01615375970, -99.57604199350, 29.01793738150, -99.57666254630, 29.01976057820, -99.57714612760, 29.02161554480, -99.57749065930, 29.02349433950, -99.57769465810, 29.02538891840, -99.57775724230, 29.02729116930, -99.57772470190, 29.02847435840, -99.57699091100, -99.57694433240, 29.04366831230, -99.57672381830, 29.04556148440, -99.57636285890, 29.04743793060, -99.57586299210, 29.04928961410, -99.57522635090, 29.05110860430, -99.57445565480, 29.05288710960, -99.57355419770, 29.05461751170, -99.57252583440, 29.05629239790, -99.57137496390, -99.57010651080, 29.05944718950, -99.56872590420, 29.06091357850, -99.56723905460, 29.06229747690, -99.56565232830, 29.06359295460, -99.56397252060, 29.06479446060, -99.56220682630, 29.06589684590, -99.56036280920, 29.06689538650, -99.55844836940, 29.06778580290, -99.55647170940, 29.06856427920, -99.55444129910, 29.06922747890, -99.55236583940, 29.06977255960, -99.55025422470, 29.07019718500, -99.54811550470, 29.07049953530, -99.54595884550, 29.07067831450, -99.54379349060, 29.07073275620, -99.54368347780, 29.07073219700, -99.54367904450, 29.07073216800, -99.54367063640, -99.54160516640, 29.07071811880, -99.54160514960,

29.07071811870;	-99.52332601820,	29.07059281150;	-98.32206488280,	27.17895493190;	-98.32155103950,
-99.52135033460,	29.07057910890;	-99.52004080320,	27.18079885270;	-98.32090342480,	27.18260877060;
29.07057000940;	-99.51799445770,	29.07050011140;	-98.32012480560,	27.18437693280;	-98.31921851020,
-99.51583960170,	29.07030530790;	-99.51370387460,	27.18609576520;	-98.31818841420,	27.18775790440;
29.06998707100;	-99.51159642960,	29.06954676480;	-98.31703892460,	27.18935622950;	-98.31577496030,
-99.50952629870,	29.06898627650;	-99.50750235340,	27.19088389270;	-98.31440193150,	27.19233434840;
29.06830800830;	-99.50553326650,	29.06751486720;	-98.31292571630,	27.19370138180,	-98.31135263580,
-99.50362747560,	29.06661025240;	-99.50179314610,	27.19497913510;	-98.30968942710,	27.19616213270;
29.06559804090;	-99.50003813640,	29.06448257060;	-98.30794321390,	27.19724530500;	-98.30612147660,
-99.49836996440,	29.06326862160;	-99.49679577500,	27.19822401010;	-98.30423202010,	27.19909405350;
29.06196139610;	-99.49532230960,	29.06056649560;	-98.30228293980,	27.19985170630;	-98.30028258750,
-99.49395587710,	29.05908989710;	-99.49270232710,	27.20049372120;	-98.29823953510,	27.20101734650;
29.05753792740;	-99.49156702490,	29.05591723590;	-98.29616253810,	27.20142033800,	-98.29406049790,
-99.49055482810,	29.05423476600;	-99.48967006650,	27.20170096820;	-98.29194242330,	27.20185803440;
29.05249772550;	-99.48891652330,	29.05071355550;	-98.29045520520,	27.20189407770;	-98.28090559250,
-99.48829741880,	29.04888989860;	-99.48781539740,	27.20192944920;	-98.28026777950,	27.20192618550;
29.04703456610;	-99.48747251550,	29.04515550450;	-98.27814490760,	27.20183447240;	-98.27603329720,
-99.48727023360,	29.04326076130;	-99.48720908600,	27.20161877470;	-98.27394199850,	27.20128001670;
29.04153365310;	-99.48714960630,	29.00389591390;	-98.27187997410,	27.20081965050;	-98.26985606110,
-99.48714992990,	29.00372071510;	-99.48723078590,	27.20023964940;	-98.26787893260,	27.19954249910;
29.00181901970;	-99.48745294280,	28.99992604640;	-98.26595706090,	27.19873118790;	-98.26409868090,
-99.48781544110,	28.99804990050;	-99.48831672060,	27.19780919280;	-98.26231175450,	27.19678046530;
28.99619861470;	-99.48895462750,	28.99438011460;	-98.26060393700,	27.19564941430;	-98.25898254400,
-99.48972642320,	28.99260218540;	-99.49062879650,	27.19442088670;	-98.25745451960,	27.19310014730;
28.99087243770;	-99.49165787810,	28.98919827580;	-98.25602640760,	27.19169285560;	-98.25470432240,
-99.49280925660,	28.98758686540;	-99.49407799810,	27.19020504180;	-98.25349392360,	27.18864308070;
28.98604510340;	-99.49545866710,	28.98457958820;	-98.25240039160,	27.18701366460;	-98.25142840520,
-99.49694534970,	28.98319659170;	-99.49853167920,	27.18532377450;	-98.25058212200,	27.18358064980;
28.98190203210;	-99.50021086350,	28.98070144930;	-98.24986516040,	27.18179175790;	-98.24928058450,
-99.50114533140,	28.98009924160;	-99.50172517340;	27.17996476140;	-98.24883089060,	27.17810748610;
28.97973911690;	-99.5025554970,	28.97923985210;	-98.24851799720,	27.17622788660;	-98.24834323640,
-99.50439849840,	28.97824220210;	-99.50631167050,	27.17433401290;	-98.24830351420,	27.17300440700;
28.97735264740;	-99.50828687840,	28.97657499420;	-98.24827071300,	27.16530377910;	-98.24827454730,
-99.51031566940,	28.97591256950;	-99.51238936210,	27.16473335220;	-98.24837767100,	27.16283530280;
28.97536820760;	-99.51449908360,	28.97494423730;	-98.24861935320,	27.16094735350;	-98.24899855110,
-99.51663580730,	28.97464247240;	-99.51879039130,	27.15907758780;	-98.24951363340,	27.15723401090;
28.97446420410; and	-99.52095361740,	28.97441019490,	-98.25016238740,	27.15542451560;	-98.25094202870,
			27.15365684800;	-98.25184921270,	27.15193857480;
			-98.25288004980,	27.15027705100;	-98.25403012140,
			27.14867938800;	-98.25529449960,	27.14715242380;
			-98.25666776770,	27.14570269330;	-98.25814404380;
			27.14433640040;	-98.25971700610,	27.14305939200;
			-98.26137991960,	27.14187713240;	-98.26312566530;
			27.14079468050;	-98.26494677060,	27.13981666780;
			-98.26627186270,	27.13919216490;	-98.26715049100;
			27.13880096040;	-98.26771406470,	27.13855607030;
			-98.26783677100,	27.13850433430;	-98.26809786590;
			27.13839484540;	-98.26859139800,	27.13819236990;
			-98.26885450170,	27.13808680220;	-98.26935182210,
			27.13789170920;	-98.26961686170,	27.13779009250;
			-98.27045143240,	27.13748232940;	-98.27057696050;
			27.13743812460;	-98.27086650950,	27.13733678020;
			-98.27132970040,	27.13717829740;	-98.27162094450;
			27.13708092100;	-98.27208657360,	27.13692885280;
			-98.27237944390,	27.13683546540;	-98.27309571530,
			27.13661545590;	-98.27412316130,	27.13631179840;
			-98.27427026360,	27.13626866980;	-98.27529930980,
			27.13596939010;	-98.27534656750,	27.13595568160;
			-98.28028733250,	27.13452608020;	-98.28040390160;
			27.13449150950;	-98.28244567520,	27.13396821540;
			-98.28452131260,	27.13356548290;	-98.28662193290,
			27.13328503490;	-98.28873854870,	27.13312807110; and
			-98.29086210400,	27.13309526320.	

(V) Surveillance Zone 22. Surveillance Zone 22 is that portion of Brooks County lying within the area described by the following latitude/longitude pairs: -98.29086210400, 27.13309526320; -98.29298351340, 27.13318675140; -98.29509370080, 27.13340214440; -98.29718363780, 27.13374052060; -98.29924438240, 27.13420043260; -98.30126711720, 27.13477991270; -98.30324318710, 27.13547648180; -98.30516413610, 27.13628715970; -98.30702174350, 27.13720847820; -98.30880805890, 27.13823649530; -98.31051543630, 27.13936681250; -98.31213656700, 27.14059459330; -98.31366451020, 27.14191458410; -98.31509272330, 27.14332113650; -98.31641508980, 27.14480823130; -98.31762594530, 27.14636950440; -98.31872010190, 27.14799827390; -98.31969287050, 27.14968756850; -98.32054008090, 27.15143015780; -98.32125809990, 27.15321858260; -98.32184384650, 27.15504518700; -98.32229480580, 27.15690215130; -98.32260903940, 27.15878152550; -98.32278519400, 27.16067526280; -98.32282607750, 27.16222641940; -98.32281627820, 27.16501134840; -98.32281627820, 27.16501136240; -98.32281357260, 27.16578038920; -98.32281357250, 27.16578040250; -98.32280037230, 27.16953161050; -98.32280037230, 27.16953161680; -98.32279424650, 27.17127223070; -98.32279424650, 27.17127224060; -98.32278834300, 27.17294980850; -98.32278477250, 27.17329865210; -98.32268306530, 27.17519678400; -98.32244276160, 27.17708490600;

(W) [(R)] Existing SZs may be modified and additional SZs may be designated as necessary by the executive director as provided in §65.84 of this title (relating to Powers and Duties of the Executive Director).

(2) (No change.)

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

Filed with the Office of the Secretary of State on July 10, 2023.

TRD-202302465

Todd S. George

Assistant General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



## DIVISION 2. CHRONIC WASTING DISEASE - COMPREHENSIVE RULES

### 31 TAC §65.99

The amendment is proposed under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapters R and R-1, which authorize the commission to establish the conditions of a deer management permit for white-tailed and mule deer, respectively; and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

The proposed amendment affects Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, R, R-1, and Chapter 61.

§65.99. *Breeding Facilities Epidemiologically Connected to Deer Infected with CWD; Positive Deer Breeding Facilities.*

(a) - (i) (No change.)

(j) Upon notification by the department that CWD is suspected in a deer as a result of ante-mortem testing in a facility, the facility is automatically NMQ and the permittee shall:

(1) euthanize the positive deer within seven days of confirmation of the positive test result;

(2) submit post-mortem test samples from breeder deer euthanized under this subsection within one business day of euthanasia, to include both ears and the identification tag required under Parks and Wildlife Code, Chapter 43, Subchapter L; and

(3) inspect the facility daily for mortalities; and

(A) immediately report each mortality to the department;

(B) immediately collect test samples from all test-eligible mortalities that occur within the facility; and

(C) submit samples collected under this subsection for post-mortem testing within one business day of the discovery of the mortality.

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 July 10, 2023.

TRD-202302465

Todd S. George

Assistant General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 20, 2023

For further information, please call: (512) 389-4775



# 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 19. EDUCATION

TRD-202302420

### PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

#### CHAPTER 239. STUDENT SERVICES CERTIFICATES

##### SUBCHAPTER B. SCHOOL LIBRARIAN CERTIFICATE

###### 19 TAC §§239.40, 239.45, 239.55, 239.60, 239.65

Proposed amended §§239.40, 239.45, 239.55, 239.60, and 239.65, published in the December 30, 2022, issue of the *Texas Register* (47 TexReg 8856), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on July 5, 2023.

TRD-202302421



###### 19 TAC §239.70

Proposed repeal of §239.70, published in the December 30, 2022, issue of the *Texas Register* (47 TexReg 8856), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on July 5, 2023.



### SUBCHAPTER D. READING SPECIALIST CERTIFICATE

#### 19 TAC §§239.90 - 239.95

Proposed amended §§239.90 - 239.92, and new §§239.93 - 239.95, published in the December 30, 2022, issue of the *Texas Register* (47 TexReg 8856), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on July 5, 2023.

TRD-202302419



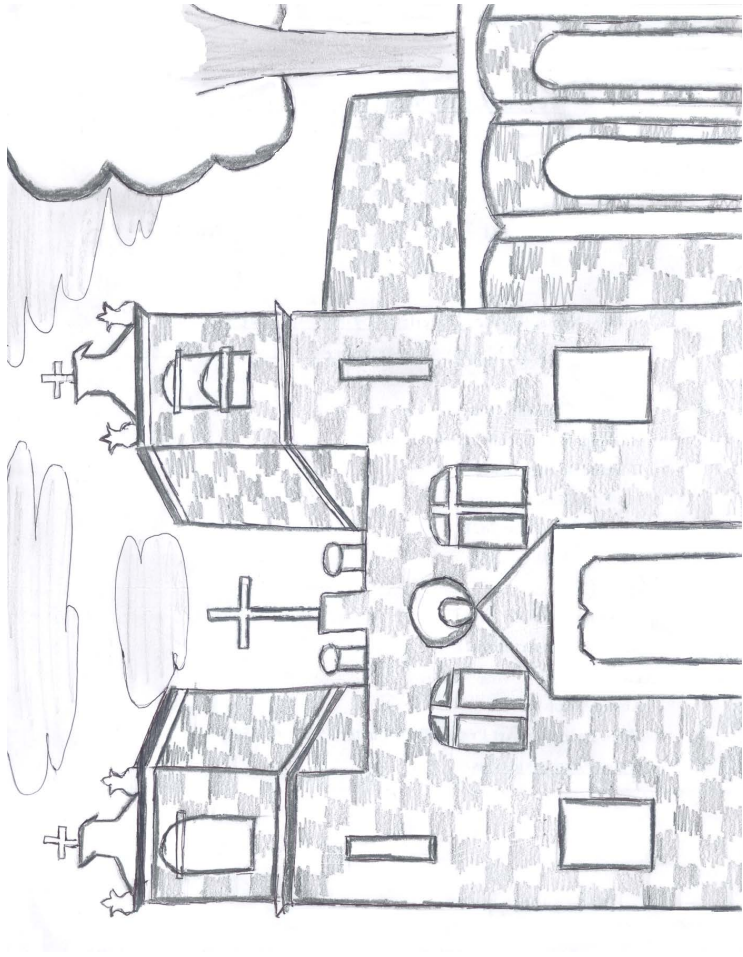
#### 19 TAC §§239.93 - 239.95

Proposed repeal of §§239.93 - 239.95, published in the December 30, 2022, issue of the *Texas Register* (47 TexReg 8856), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on July 5, 2023.

TRD-202302418







# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

### PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 355. REIMBURSEMENT RATES

##### SUBCHAPTER L. LOCAL FUNDS

##### MONITORING

###### 1 TAC §355.8707

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

HHSC adopts new §355.8707 with changes to the proposed text as published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1683). This rule will be republished.

##### BACKGROUND AND JUSTIFICATION

The new rule implements the requirements of 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 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 notice of newly created LPPFs, enabling the agency to maintain oversight and reduce the risk of federal recoupment.

This new rule is also necessary to comply with the requirements of 42 C.F.R. §433.51 (Public Funds as the State share of financial participation), 42 C.F.R. §433.68 (Permissible health care-related taxes), 42 C.F.R. §433.74 (Reporting requirements), and Sections 1903(w)(1)(A)(i)-(iii) of the Social Security Act.

##### COMMENTS

The 31-day comment period ended May 1, 2023.

During this period, HHSC received the following comments regarding the new rule from four commenters: UT Health Athens, Paris Regional Health, CHRISTUS Health, and the Texas Organization of Rural and Community Hospitals (TORCH). A summary of comments relating to the rule and HHSC's responses follows.

Comment: Two commenters requested clarification of the types of agreements that should be submitted to document relationships between the Local Governmental Entity (LGE) and private providers. The commenters thought a non-exhaustive list of types of agreements that HHSC has received from other local funds monitoring efforts would be helpful.

Response: HHSC understands the desire to have a list of potential types of agreements that must be submitted; however, HHSC

does not have access to LGE records or insight into the full array of business relationships between LGEs and private entities. We will post a list of agreements we have encountered so far in our monitoring efforts. Still, it is the LGE's sole responsibility to provide each agreement between the LGE and private providers, regardless of type. Before annual reporting opens in October 2023, the non-exhaustive list of relationship and document types will be available on the Provider Finance Department's Local Funds Monitoring (LFM) website at: <https://pfd.hhs.texas.gov/local-funds-monitoring>. No changes to the rule text were made as a result of these comments.

Comment: Two commenters expressed support for the new rule.

Response: HHSC appreciates the commenters' support of the rule. No changes were necessary in response to these comments.

Minor editorial changes were made to §355.8707(a)(2)(G) and §355.8707(a)(4)(A) to correct punctuation and spelling.

##### STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas 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.

§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 acknowledgment 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 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 July 6, 2023.

TRD-202302434

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: July 26, 2023

Proposal publication date: March 31, 2023

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



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts the repeal of §§127.411, 127.633, 127.744, 127.756, 127.757, 127.765, 127.769, and 127.770, concerning Texas Essential Knowledge and Skills (TEKS) for career development and career and technical education (CTE). The repeals are adopted without changes to the proposed text as published in the May 12, 2023 issue of the *Texas Register* (48 TexReg 2471) and will not be republished. The repeals remove the TEKS for eight CTE courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.792, 127.793, and 127.794 beginning with the 2023-2024 school year.

REASONED JUSTIFICATION: The TEKS for courses associated with 17 CTE career clusters are codified by subchapter in 19 TAC Chapters 127 and 130. In December 2020, the SBOE began initial steps to prepare for the review and revision of CTE courses in programs of study for the education and training; health science; and science, technology, engineering, and mathematics career clusters. Two additional courses eligible to satisfy a graduation requirement in science were also part of the review. The board approved for second reading and final adoption new TEKS for these courses in November 2021 and January, April, and June 2022.

Due to the current structure of Chapter 130, there were not enough sections to add the new CTE courses under consideration in their assigned subchapters. To accommodate the addition of proposed new courses, the CTE TEKS in Chapter 130 are being moved to existing 19 TAC Chapter 127, which was renamed "Texas Essential Knowledge and Skills for Career Development and Career and Technical Education."

The repeals remove the TEKS for eight CTE courses that will be superseded by new TEKS in 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.792, 127.793, and 127.794, beginning with the 2023-2024 school year.

The SBOE approved the repeals for first reading and filing authorization at its April 14, 2023 meeting and for second reading and final adoption at its June 23, 2023 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the repeals for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will repeal sections to avoid confusion with new TEKS that are being implemented at the beginning of the 2023-2024 school year. The effective date is August 1, 2023.

**SUMMARY OF COMMENTS AND RESPONSES:** The public comment period began May 12, 2023, and ended at 5:00 p.m. on June 16, 2023. No comments were received on the proposal.

## SUBCHAPTER I. HEALTH SCIENCE

### 19 TAC §127.411

**STATUTORY AUTHORITY.** The repeal is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code, §7.102(c)(4) and §28.002(a) and (c).

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

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 July 10, 2023.

TRD-202302474

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 1, 2023

Proposal publication date: May 12, 2023

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



## SUBCHAPTER M. LAW AND PUBLIC SERVICE

### 19 TAC §127.633

**STATUTORY AUTHORITY.** The repeal is adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code, §7.102(c)(4) and §28.002(a) and (c).

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 July 10, 2023.

TRD-202302475

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 1, 2023

Proposal publication date: May 12, 2023

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



## SUBCHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS

### 19 TAC §§127.744, 127.756, 127.757, 127.765, 127.769, 127.770

**STATUTORY AUTHORITY.** The repeals are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

**CROSS REFERENCE TO STATUTE.** The repeals implement Texas Education Code, §7.102(c)(4) and §28.002(a) and (c).

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 July 10, 2023.

TRD-202302476

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 1, 2023

Proposal publication date: May 12, 2023

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



## TITLE 22. EXAMINING BOARDS

### PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

#### CHAPTER 363. EXAMINATION AND REGISTRATION

##### 22 TAC §363.9

The Texas State Board of Plumbing Examiners (Board) adopts the amendment to 22 Texas Administrative Code (TAC), Chapter

363, §363.9 which concerns examination and registration. The rule is adopted with changes to the proposed text published in the February 10th, 2023, issue of the *Texas Register* (48 TexReg 619). The rule will be republished.

#### REASONED JUSTIFICATION FOR THE RULE

The rule amendment allows a nationally known and recognized certification in medical gas installation from the American Society of Sanitation Engineering (ASSE) to qualify medical gas installation endorsement candidates. The rule amendment specifically names the latest edition of the Professional Qualifications Standard for Medical Gas Systems Personnel Series 6000, Standard 6010, from the ASSE (6010) as the appropriate certification to expand qualification opportunities to potential medical gas piping installation endorsement holders.

The 6010 certification requires more rigorous training standards than the Board and is nationally recognized. This allows greater portability for candidates while not compromising the standards required by the Board. The rule allows the Board to recognize this training as an additional path to qualification for holding a medical gas piping installation endorsement and lower unnecessary regulatory barriers to qualified endorsement candidates.

#### SECTION-BY-SECTION SUMMARY

The rule amendment at §363.9 allows the recognition of the eligibility credential of certification in medical gas piping installation by the ASSE, specifically the 6010 certification, for a Texas medical gas piping endorsement.

#### SUMMARY OF COMMENT

One comment was received regarding the proposed rule amendment. An individual from ASSE International, commented in support of the amendment.

#### BOARD ACTION

At its meeting on June 27, 2023, the Board adopted the proposed rule as published in the *Texas Register*.

#### STATUTORY AUTHORITY

The rule is adopted under the authority of § 1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce the Plumbing License Law.

#### §363.9. *Medical Gas Piping Installation Endorsement.*

(a) To be eligible for a Medical Gas Piping Installation Endorsement an applicant must:

(1) hold a current Texas Journeyman Plumber, Master Plumber or Plumbing Inspector License; and

(2) have successfully completed an approved training program in medical gas piping installation, which is based on the standards contained in the latest edition of the National Fire Protection Association 99 Health Care Facilities Code (NFPA 99), or may demonstrate the successful completion of the Professional Qualification Standard for Medical Gas Systems Personnel Series 6000, Standard 6010, latest edition, recognized by the American Society of Sanitation Engineers (ASSE).

(b) At a minimum, the training program required by subsection (a)(2) of this section shall:

(1) consist of at least twenty-four (24) hours dedicated to classroom presentation, shop demonstration and testing of the enrollee's comprehension of the course material;

(2) address the responsibilities of an endorsement-holder as outlined in the current edition of the NFPA 99, Plumbing License Law and Board Rules;

(3) address the proper installation and testing requirements for medical gas and vacuum piping systems, as outlined in the current edition of the NFPA 99; and

(4) include at least four (4) hours of shop demonstration covering the proper assembly, purging and brazing procedures for horizontal and vertical joints.

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 July 6, 2023.

TRD-202302457

Lynn Latombe

General Counsel

Texas State Board of Plumbing Examiners

Effective date: July 26, 2023

Proposal publication date: February 10, 2023

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



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 745. LICENSING

The Texas Health and Human Services Commission (HHSC) adopts in Texas Administrative Code (TAC), Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, new §745.43; new Subchapter I, Non-Enforcement Voluntary Actions, new §§745.5001, 745.5003, 745.5051, 745.5101, 745.5103, 745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161, and 745.5201; new Subchapter K, Inspections, Investigations, and Confidentiality, and new §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8581, 745.8583, and 745.8585.

New §§745.5101, 745.8405, 745.8487, and 745.8493 are adopted with changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1518). These rules will be republished.

New §§745.43, 745.5001, 745.5003, 745.5051, 745.5103, 745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161, 745.5201; 745.8401, 745.8403, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8481, 745.8483, 745.8485, 745.8489, 745.8491, 745.8581, 745.8583, and 745.8585 are adopted without changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1518). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The new sections are necessary to finalize the rule compliance requirements for House Bill (H.B.) 5, 85th Legislature, Regular Session, 2017, directing the Texas Department of Family and

Protective Services (DFPS) to become a stand-alone agency that is separate from the Texas Health and Human Services Commission (HHSC) and the health and human services system. This bill also moved the regulation of child care from DFPS to HHSC, with only the responsibility for investigating allegations of child abuse, neglect, and exploitation in child care operations remaining at DFPS.

Since HHSC Child Care Regulation (CCR) is responsible for the administrative rules in TAC Title 40, Chapter 745, Licensing, that impact child care operations, these rules had to be transferred from DFPS to HHSC. In 2019, CCR administratively transferred all the rules in Title 40, Chapter 745 to Title 26, Chapter 745, except for Subchapters K and M; those subchapters could not be administratively transferred since some of the rules also applied to responsibilities that remained with DFPS. In March 2023, CCR repealed Title 40, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings, and adopted new rules in Title 26, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings.

DFPS has also adopted rules applicable to DFPS responsibilities in Title 40, Chapter 707. In addition, CCR is adopting a new rule in Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, and new rules in new Subchapter I, Non-Enforcement Voluntary Actions, and new Subchapter K, Inspections, Investigations, and Confidentiality, all applicable to CCR responsibilities. The repeal of Title 40, Chapter 745, Subchapter K, Inspections and Investigations, is being adopted elsewhere in this issue of the *Texas Register*.

In addition to replacing the content of the Title 40, Chapter 745, Subchapter K rules with new rules in Title 26, Chapter 745, Subchapters, B, I, and K, the changes in the adopted rules (1) remove any duties directly related to any DFPS responsibilities, including the investigation of child abuse, neglect, and exploitation, as DFPS has rules to address those responsibilities; (2) update the rules with current practices; and (3) update the rules for better readability and understanding.

#### COMMENTS

The 31-day comment period ended April 17, 2023. During this period, HHSC received two comments regarding the proposed rules from the Texas Alliance of Child and Family Services (TACFS). HHSC also received one additional comment stating support for the TACFS comments, from Hendrick Home for Children, a general residential operation. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Regarding §745.8411, the comment urged for helpful information and training to be provided to inspectors that focus on carrying out inspections in a manner that is sensible and recognizes other needs, including the child's own need for as much normalcy and as little repeated trauma as possible, an operation's need to meet ratios and to continue serving children, and an operation's need to take immediate steps to make sure children are safe.

Response: HHSC agrees with the comment, but changes to the rule are not required. The comment relates to the implementation of the rule. The comment was forwarded to CCR management.

Comment: Regarding §745.8483, the comment recommended that HHSC preserve current rule language that addresses sharing confidential information during an open investigation with operations when it is appropriate to ensure a child's safety.

Response: HHSC agrees with the comment and made appropriate changes to §745.8487 and §745.8493, clarifying that CCR may release to a child care operation confidential information in HHSC records related to an open HHSC investigation or a DFPS investigation when the operation needs the information to protect the health, safety, or well-being of a child, as provided by state and federal law including the federal Child Abuse Prevention and Treatment Act.

HHSC also made minor editorial changes to §745.5101 and §745.8405(a).

## SUBCHAPTER B. CHILD CARE AND OTHER OPERATIONS THAT WE REGULATE

### 26 TAC §745.43

#### STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302442

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## SUBCHAPTER I. NON-ENFORCEMENT VOLUNTARY ACTIONS

### DIVISION 1. OVERVIEW OF VOLUNTARY ACTIONS

#### 26 TAC §745.5001, §745.5003

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302443  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 23, 2023  
Proposal publication date: March 17, 2023  
For further information, please call: (512) 438-3269



## DIVISION 2. NOTICE AND APPROVAL

### 26 TAC §745.5051

#### STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302444  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 23, 2023  
Proposal publication date: March 17, 2023  
For further information, please call: (512) 438-3269



## DIVISION 3. TEMPORARY RELOCATION

### 26 TAC §745.5101, §745.5103

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

*§745.5101. What must I do when I temporarily relocate my operation because of a renovation or damage that makes the operation temporarily unsuitable for child care?*

You must:

(1) Complete the notice requirements in §745.5051 of this subchapter (relating to What notice and approval is required for a voluntary action?);

(2) Prior to a planned temporary relocation:

(A) Obtain any inspections at the temporary location that are identified in the applicable minimum standards, which may include fire, sanitation, and gas leak inspections;

(B) Ensure the temporary location complies with applicable licensing statutes, rules, and minimum standards;

(C) Allow us to conduct an inspection under §745.5103 of this division (relating to What actions will Licensing take after receiving a notice that you are temporarily relocating?); and

(D) Obtain our approval for any aspect of the temporary location that does not comply with the applicable licensing statutes, rules, and minimum standards; and

(3) For an emergency relocation:

(A) Complete each step in paragraph (1) of this section as soon as possible after the relocation; and

(B) If you are a residential child care operation, meet any additional reporting and documentation requirements under:

(i) §748.303(e)(1) and (3) of this title (relating to When must I report and document a serious incident?); or

(ii) §749.503(e)(1) and (3) of this title (relating to When must I report and document a serious incident?).

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 July 6, 2023.

TRD-202302445  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 23, 2023  
Proposal publication date: March 17, 2023  
For further information, please call: (512) 438-3269



## DIVISION 4. VOLUNTARY SUSPENSION

### 26 TAC §§745.5151, 745.5153, 745.5155, 745.5157, 745.5159, 745.5161

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302446  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 23, 2023  
Proposal publication date: March 17, 2023  
For further information, please call: (512) 438-3269

◆   ◆   ◆

## DIVISION 5. VOLUNTARY CLOSURE

### 26 TAC §745.5201

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302447

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269

◆   ◆   ◆

## SUBCHAPTER K. INSPECTIONS, INVESTIGATIONS, AND CONFIDENTIALITY

### DIVISION 1. OVERVIEW OF INSPECTIONS AND INVESTIGATIONS

### 26 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

*§745.8405. When does Licensing inspect or investigate an operation or program?*

(a) The following chart describes when we inspect or investigate an operation:

Figure: 26 TAC §745.8405(a)

(b) We may inspect or investigate your operation or program during its hours of operation.

(c) If you operate a child-placing agency main office or branch office that is not open between 8:00 a.m. and 5:00 p.m., Monday through Friday, you must ensure that the office and employees are available upon our request for the purpose of inspecting or investigating your agency.

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

Filed with the Office of the Secretary of State on July 6, 2023.

TRD-202302448

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269

◆   ◆   ◆

## DIVISION 2. NOTIFICATION

### 26 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 749.8449

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302449

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269

◆   ◆   ◆

## DIVISION 3. CONFIDENTIAL RECORDS

### 26 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

*§745.8487. Are there any exceptions that allow the portions of a child care record that are confidential to be released to the public or certain persons?*

Notwithstanding §745.8483 of this division (relating to What portions of a child care record are confidential?), the below exceptions allow

certain portions of a child care record that are confidential to be released in the following manner:

(1) Information obtained during an open investigation that was confidential under §745.8483(1) of this division is no longer confidential under that provision after the investigation is completed.

(2) Information obtained during an open investigation that is otherwise confidential under §745.8483(1) of this division may be released to an operation if Licensing determines it is necessary to protect the health, safety, or well-being of a child and the release is compliant with applicable state and federal law including the federal Child Abuse Prevention and Treatment Act.

(3) A foster home screening, adoptive home screening, and post-placement adoptive report is confidential under §745.8483(4)(B) of this division, but the screening or report may be released to:

(A) The individual who is the subject of the screening or report; or

(B) Any other person, if the Associate Commissioner for Child Care Regulation or designee determines the release of the screening or report is necessary to protect the health or safety of a child.

(4) The location of a family violence shelter or a victims of trafficking shelter center is confidential under §745.8483(6) of this division, except for when the location of the shelter or center must be provided in a public hearing under Texas Human Resources Code §42.0461 because the shelter or center is a general residential operation that will provide services to children with emotional disorders. The operation does not have to identify that the operation intends to provide services to victims of human trafficking.

(5) Any photograph, audio or visual recording, or documentation of a child is confidential under §745.8483(8) of this division, unless it is releasable under §745.8491 of this division (relating to Who can review or have a copy of a photograph, audio or visual recording, or documentation of a child that is in our records?).

§745.8493. *Will Licensing release any information related to a child abuse, neglect, or exploitation investigation conducted by the Texas Department of Family and Protective Services (DFPS)?*

(a) DFPS investigations of child abuse, neglect, or exploitation remain confidential after DFPS provides the information to Licensing as described in Texas Human Resources Code §40.042(f).

(b) A person must request information related to an investigation conducted by DFPS from DFPS.

(c) We may release information related to a DFPS investigation in our records to:

(1) An operation to support a licensing statute, rule, or minimum standard deficiency that we assessed against the operation, so long as we redact any confidential information;

(2) An operation if Licensing determines that the operation needs the information to protect the health, safety, or well-being of a child, and the release is compliant with state and federal law including the federal Child Abuse Prevention and Treatment Act; or

(3) Any other person or entity authorized by state or federal law to have a copy.

(d) Any operation, person, or entity that receives information related to a DFPS child abuse, neglect, or exploitation investigation under this section:

(1) May only use the DFPS investigation information for the purpose or duty that authorized the release of the information; and

(2) May not release the DFPS investigation information to any other person or entity that is not authorized to have the information under this section.

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

Filed with the Office of the Secretary of State on July 6, 2023.

TRD-202302450

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## DIVISION 4. TECHNICAL ASSISTANCE

### 26 TAC §§745.8581, 745.8583, 745.8585

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302451

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 15. TEXAS FORENSIC SCIENCE COMMISSION

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

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.5 and §651.203 without changes to the text as published in the May 26, 2023, issue of the *Texas Register* (48 TexReg 2681) to change a reference from "SNP" (single-nucleotide polymorphisms) to "massively parallel sequencing" in the categories of analysis for forensic biology/DNA to harmonize the reference



with terminology used by the Commission's recognized accrediting bodies. The rules will not be republished.

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

## SUBCHAPTER A. ACCREDITATION

### 37 TAC §651.5

Statutory Authority. The amendments are adopted in accordance with the Commission crime laboratory accreditation authority under (1) Code of Criminal Procedure Article 38.01 § 4-d which directs the Commission to establish an accreditation process for crime laboratories; (2) the Commission's forensic analyst licensing authority under Code of Criminal Procedure Article 38.01 § 4-a, which directs the Commission to establish the qualifications for a forensic analyst license' and (3) the Commission's general rulemaking authority under Article 38.01 § 3-a, which generally directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01 §§ 4-a and 4-d.

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 July 3, 2023.

TRD-202302402

Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

Effective date: July 23, 2023

Proposal publication date: May 26, 2023

For further information, please call: (512) 936-0661



## SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

### 37 TAC §651.203

Statutory Authority. The amendments are adopted in accordance with the Commission crime laboratory accreditation authority under (1) Code of Criminal Procedure Article 38.01 § 4-d which directs the Commission to establish an accreditation process for crime laboratories; (2) the Commission's forensic analyst licensing authority under Code of Criminal Procedure Article 38.01 § 4-a, which directs the Commission to establish the qualifications for a forensic analyst license' and (3) the Commission's general rulemaking authority under Article 38.01 § 3-a, which generally directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Article 38.01.

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01 §§ 4-a and 4-d.

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 July 3, 2023.

TRD-202302403

Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

Effective date: July 23, 2023

Proposal publication date: May 26, 2023

For further information, please call: (512) 936-0661



## SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

### 37 TAC §651.207, §651.211

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code §651.207 and §651.211 without changes to the text as published in the May 26, 2023, issue of the *Texas Register* (46 TexReg 2683) to eliminate the fee for a temporary forensic analyst license. The rules will not be republished.

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

Statutory Authority. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Art. 38.01 § 4-a(d)(2), which directs the Commission to establish fees for the issuance of a license, and the Commission's general rulemaking authority under Art. 38.01 § 3-a, which directs the Commission to adopt rules necessary to implement Code of Criminal Procedure, Art. 38.01.

Cross-reference to statute. The proposal affects Tex. Code Crim. Proc. Art. 38.01 § 4-a(d)(2).

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 July 3, 2023.

TRD-202302404

Leigh Tomlin

Associate General Counsel

Texas Forensic Science Commission

Effective date: July 23, 2023

Proposal publication date: May 26, 2023

For further information, please call: (512) 936-0661



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

#### CHAPTER 745. LICENSING

#### SUBCHAPTER K. INSPECTIONS AND INVESTIGATIONS

The Texas Health and Human Services Commission (HHSC) adopts in Texas Administrative Code (TAC), Title 40, Chapter 745, the repeal of Subchapter K, Inspections and Investigations, which consists of the repeal of §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415,

745.8417, 745.8419, 745.8421, 745.8423, 745.8425, 745.8427, 745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8451, 745.8453, 745.8455, 745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8495, 745.8511, 745.8513, 745.8515, 745.8517, 745.8519, 745.8521, 745.8523, 745.8525, 745.8527, 745.8529, 745.8531, 745.8533, 745.8551, 745.8553, 745.8555, 745.8557, 745.8559, 745.8561, 745.8581, 745.8583, and 745.8585.

All the repealed sections in TAC Title 40, Chapter 745, Subchapter K, are adopted without changes to the proposed text as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1536). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The repealed sections are necessary to finalize the rule compliance requirements for House Bill (H.B.) 5, 85th Legislature, Regular Session, 2017, directing the Texas Department of Family and Protective Services (DFPS) to become a stand-alone agency that is separate from the Texas Health and Human Services Commission (HHSC) and the health and human services system. This bill also moved the regulation of child care from DFPS to HHSC, with only the responsibility for investigating allegations of child abuse, neglect, and exploitation in child care operations remaining at DFPS.

Since HHSC Child Care Regulation (CCR) is responsible for the administrative rules in TAC Title 40, Chapter 745, Licensing, that impact child care operations, these rules had to be transferred from DFPS to HHSC. In 2019 CCR administratively transferred all the rules in Title 40, TAC, Chapter 745 to Title 26, TAC, Chapter 745, except for Subchapters K and M; those subchapters could not be administratively transferred since some of the rules also applied to responsibilities that remained with DFPS. In March 2023, CCR repealed Title 40, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings, and adopted new rules in Title 26, Chapter 745, Subchapter M, Administrative Reviews and Due Process Hearings.

DFPS has also adopted rules applicable to DFPS responsibilities in Title 40, Chapter 707. In addition, CCR is adopting and publishing elsewhere in this issue of the *Texas Register* a new rule in Title 26, Chapter 745, Subchapter B, Child Care and Other Operations that We Regulate, and new rules in new Subchapter I, Non-Enforcement Voluntary Actions, and new Subchapter K, Inspections, Investigations, and Confidentiality, all applicable to CCR responsibilities. Accordingly, CCR is adopting the repeal of Title 40, Chapter 745, Subchapter K, Inspections and Investigations, including the repeal of the rules in that subchapter.

#### COMMENTS

The 31-day comment period ended April 17, 2023. During this period, HHSC did not receive any comments regarding the proposed repeal.

#### DIVISION 1. OVERVIEW OF INSPECTIONS AND INVESTIGATIONS

**40 TAC §§745.8401, 745.8403, 745.8405, 745.8407, 745.8409, 745.8411, 745.8413, 745.8415, 745.8417, 745.8419, 745.8421, 745.8423, 745.8425, 745.8427**

#### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302436

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



#### DIVISION 2. NOTIFICATION

**40 TAC §§745.8441, 745.8443, 745.8445, 745.8447, 745.8449, 745.8451, 745.8453, 745.8455**

#### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302437

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



#### DIVISION 3. CONFIDENTIALITY

**40 TAC §§745.8481, 745.8483, 745.8485, 745.8487, 745.8489, 745.8491, 745.8493, 745.8495**

#### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302438

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## DIVISION 4. VOLUNTARY ACTIONS

**40 TAC §§745.8511, 745.8513, 745.8515, 745.8517, 745.8519, 745.8521, 745.8523, 745.8525, 745.8527, 745.8529, 745.8531, 745.8533**

### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302439

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## DIVISION 5. ABUSE AND NEGLECT

**40 TAC §§745.8551, 745.8553, 745.8555, 745.8557, 745.8559, 745.8561**

### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302440

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## DIVISION 6. TECHNICAL ASSISTANCE

**40 TAC §§745.8581, 745.8583, 745.8585**

### STATUTORY AUTHORITY

The repealed sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.02011, which transferred the regulatory functions of DFPS to HHSC. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 6, 2023.

TRD-202302441

Karen Ray

Chief Counsel

Department of Family and Protective Services

Effective date: August 23, 2023

Proposal publication date: March 17, 2023

For further information, please call: (512) 438-3269



## TITLE 43. TRANSPORTATION

### PART 15. DENTON COUNTY TAX ASSESSOR-COLLECTOR

#### CHAPTER 430. MOTOR VEHICLE TITLE SERVICES

**43 TAC §§430.1 - 430.16**

The Denton County Tax Assessor-Collector adopts amendments to 43 TAC §§430.1 - 430.16, relating to the regulation of motor vehicle title services in Denton County, Texas. The amendments to TAC §§430.1 - 430.4 and 430.6 - 430.16 are adopted without changes to the proposed amendments as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1539) and will not be republished. The amendments to TAC §430.5 are adopted with changes to the proposed amendments as published in the March 17, 2023, issue of the *Texas Register* (48 TexReg 1539) and will be republished. Texas Transportation Code Chapter 520, Subchapter E authorizes a county tax assessor-collector to adopt rules pertaining to the licensing of motor vehicle title services.

The Denton County Tax Assessor-Collector, Michelle French, adopts these amendments for the purpose of providing improved accuracy and clarity to the chapter, and for the purpose of enhancing its provisions to better ensure compliance and to better guard against attempts to subvert its requirements by undetected fraud. Ms. French has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcement of the rules will be to reduce vehicle theft and related document fraud.

The amendments do not create or repeal regulation, but enhance and clarify the existing regulations set forth in 43 TAC §§430.1 - 430.16. The amendments do not affect any other statutes, articles or codes.

The Denton County Tax Assessor-Collector received no comments or requests for clarification concerning the proposed amendments, and no changes to the proposed amendments were made.

Texas Transportation Code Chapter 520, Subchapter E authorizes a county tax assessor-collector to adopt rules pertaining to the licensing of motor vehicle title services. Specifically, Section 520.059(b) states that the county tax assessor-collector shall adopt rules that establish grounds for the denial, suspension, revocation or reinstatement of a license and rules that establish procedures for disciplinary action.

§430.5. *Submission of Application.*

Each license application must be submitted by the applicant, in person, at any DCTAC location during business hours. The application must be complete and include all required documentation. To submit the completed application, applicant must, at the time of the submission:

(1) presents a valid Texas driver's license and a valid Social Security Card or, if applicable, a U.S.-issued alien identification card issued by the Department of Homeland Security, and permits a copy of both to be made for DCTAC records; and

(2) pays the non-refundable application fee.

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 July 6, 2023.

TRD-202302458

Michelle French

Denton County Tax Assessor-Collector

Denton County Tax Assessor-Collector

Effective date: July 26, 2023

Proposal publication date: March 17, 2023

For further information, please call: (940) 349-3500



# 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 Agriculture

### Title 4, Part 1

The Texas Department of Agriculture (Department) files this notice of intent to review Texas Administrative Code, Title 4, Part 1, Chapter 26, Subchapter A, Texas School Nutrition Policies, and Subchapter D, The Emergency Food Assistance Program (TEFAP). This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules). The Department will consider whether the initial factual, legal, and policy reasons for adopting each rule continue to exist and whether these rules should be repealed, readopted, or readopted with amendments. Written comments pertaining to this rule review may be submitted by mail to Lisa Hoyt, Deputy General Counsel for Food & Nutrition, at Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-2847 or by email to [lisa.hoyt@texasagriculture.gov](mailto:lisa.hoyt@texasagriculture.gov). The deadline for comments is 30 days after publication of this notice in the *Texas Register*.

TRD-202302460

Skyler Shafer

Assistant General Counsel

Texas Department of Agriculture

Filed: July 7, 2023



Texas Commission on the Arts

### Title 13, Part 3

The Texas Commission for the Arts (Commission) publishes its notice of intent to initiate the Quadrennial rule review process of Title 13 Texas Administrative Code Chapter 31 (Agency Procedures), Chapter 32 (Memoranda of Understanding), and Chapter 35 (A Guide to Programs and Services) pursuant to Texas Government Code § 2001.039.

The Commission will consider whether the reasons for adopting the rules contained in these chapters continue to exist. The commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

Any questions or written comments pertaining to this notice should be directed to the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711-3406, ATTN: Gary Gibbs, or by email to [gary@arts.texas.gov](mailto:gary@arts.texas.gov). Any proposed amendments as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for the required public comment period prior to adoption or repeal by the commission.

TRD-202302481

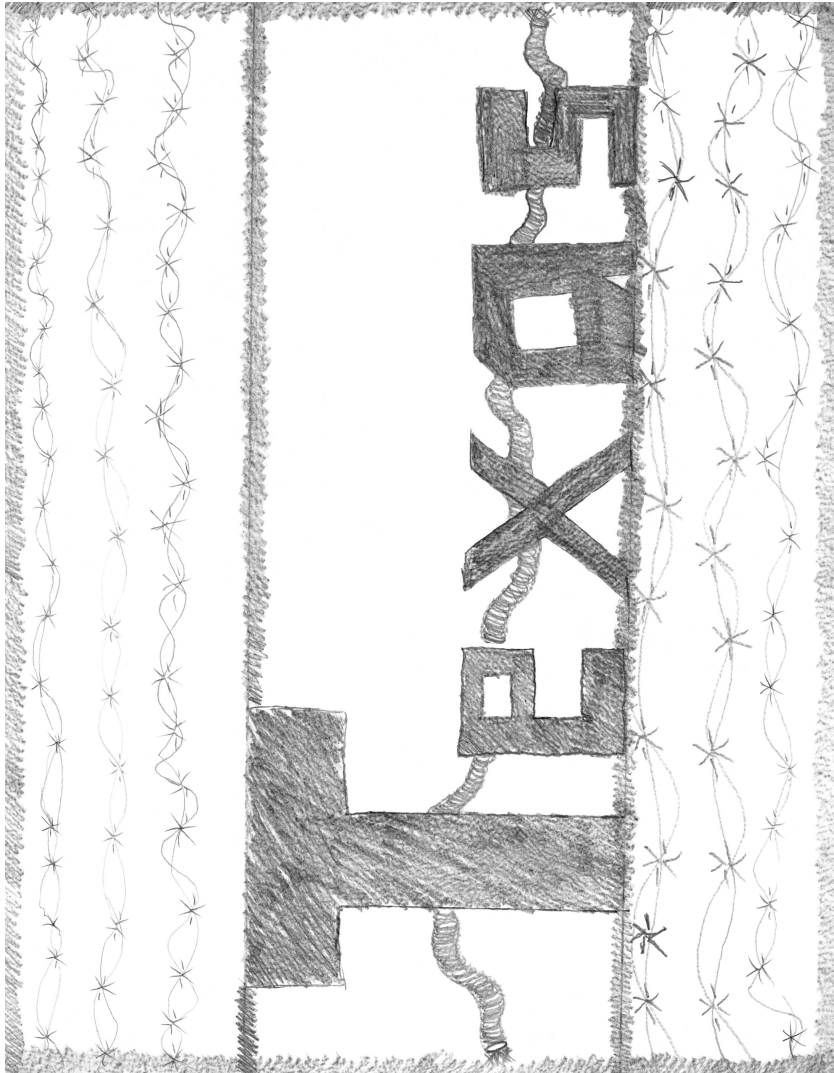
Gary Gibbs

Executive Director

Texas Commission on the Arts

Filed: July 11, 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: 26 TAC §745.8405(a)

Type of Operation	Inspection	Investigation
(1) Listed Family Home, excluding Relative-Only Listed Family Homes (see paragraph (2) of this subsection)	<p>We may inspect as part of an investigation.</p> <p>Note: We do not inspect prior to the issuance of a listing, nor do we conduct routine inspections in a listed family home.</p>	<p>We investigate when we have received a report of a deficiency in a licensing statute, rule, or minimum standard.</p>
(2) Relative-Only Listed Family Home, which only provides care to children related to the primary caregiver and receives a federal subsidy from the Texas Workforce Commission	<p>We may inspect as part of an investigation.</p> <p>Note: We do not inspect prior to the issuance of a listing, nor do we conduct routine inspections in a relative-only listed family home.</p>	<p>We investigate when we have received a report of a deficiency under §745.43(1) – (4) of this chapter (relating to What are the requirements for a relative-only listed family home?).</p>
(3) Registered Child-Care Home	<ul style="list-style-type: none"> <li>• We inspect prior to the issuance of the registration;</li> <li>• We inspect at least once every two years after issuance of the registration, or at least once every year if the home is receiving a subsidy for a child in care through the Texas Workforce Commission; and</li> <li>• We may inspect as part of an investigation.</li> </ul>	<p>We investigate when we have received a report of a deficiency in a licensing statute, rule, or minimum standard.</p>
(4) Licensed or Certified Operation	<ul style="list-style-type: none"> <li>• We inspect prior to the issuance of the license or certification;</li> <li>• We inspect at least once every year; and</li> </ul>	<p>We investigate when we have received a report of a deficiency in a licensing statute, rule, or minimum standard.</p>



	<ul style="list-style-type: none"> <li>• We may inspect as part of an investigation.</li> </ul>	
(5) Foster Home	<ul style="list-style-type: none"> <li>• We will periodically inspect a random sample of foster homes; and</li> <li>• We may inspect as part of an investigation.</li> </ul>	<ul style="list-style-type: none"> <li>• We investigate when we have received a report of: <ul style="list-style-type: none"> <li>○ A serious incident pertaining to a child under six years of age;</li> <li>○ A deficiency in a licensing statute, rule, or minimum standard that is weighted high in a home where a foster child under six years of age is placed;</li> <li>○ Any deficiency in a licensing statute, rule, or minimum standard when law enforcement responds to or has previously responded to a family violence call at the foster home; and</li> <li>○ A deficiency involving agency staff; and</li> </ul> </li> <li>• We may investigate other reports of a deficiency in a licensing statute, rule, or minimum standard or assign them to the agency to investigate.</li> </ul>
(6) Adoptive Home	We may inspect as part of an investigation.	<ul style="list-style-type: none"> <li>• We investigate when we have received a report of a deficiency involving agency staff; and</li> <li>• We may investigate other reports of a deficiency in a licensing statute, rule, or minimum standard or assign them to the agency to investigate.</li> </ul>

<p>(7) Small Employer-Based Child Care</p>	<ul style="list-style-type: none"> <li>• We inspect prior to the issuance of the compliance certificate; and</li> <li>• We may inspect as part of an investigation.</li> </ul>	<p>We investigate when we have received a report of a deficiency in a licensing statute or rule.</p>
<p>(8) Shelter Care</p>	<ul style="list-style-type: none"> <li>• We inspect prior to the issuance of the compliance certificate; and</li> <li>• We may inspect as part of an investigation.</li> </ul>	<p>We investigate when we have received a report of deficiency in a licensing statute, rule, or minimum standard.</p>

# IN ADDITION

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

## Office of the Attorney General

Request for Applications (RFA) for the Second Offering Sexual Assault Prevention and Crisis Services (SAPCS)-State Program

The Office of the Attorney General (OAG) is soliciting applications from programs that provide services to victims of sexual assault.

**Applicable Funding Source:** The source of funding is through a biennial appropriation by the Texas Legislature. All funding is contingent upon an appropriation to the OAG by the Texas Legislature. The OAG makes no commitment that an application, once submitted, or a grant, once funded, will receive subsequent funding.

### Eligibility Requirements:

**Eligible Applicants:** Sexual Assault Programs as defined by Texas Government Code, Section 420.003 and as stated in the Application Kit.

**Eligibility:** The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible Applicant; the application is not submitted in the manner and form required by the Application Kit; the application is submitted after the deadline established in the Application Kit; or the application does not meet other requirements as stated in the RFA and the Application Kit.

**How to Obtain Application Kit:** The OAG will post the Application Kit on the OAG's website at <https://www.texasattorneygeneral.gov/divisions/grants>. Updates and other helpful reminders about the application process will also be posted at this location. Potential Applicants are encouraged to refer to the site regularly.

### Deadlines and Filing Instructions for the Grant Application:

**Create an On-Line Account:** Creating an on-line account in the Grant Offering and Application Lifecycle System (GOALS) is required to apply for a grant. **If an on-line account is not created, the Applicant will be unable to apply for funding.** To create an on-line account, the Applicant must email the point of contact information to [Grants@oag.texas.gov](mailto:Grants@oag.texas.gov) with the following information:

- First Name
- Last Name
- Email Address (*It is highly recommended to use a generic organization email address if available*)
- Organization Legal Name

**Application Deadline:** The Applicant must submit its application, including all required attachments, to the OAG by the deadline and the manner and form established in the Application Kit.

**Filing Instructions:** Strict compliance with the submission instructions, as provided in the Application Kit, is required. The OAG will **not** consider an Application if it is not submitted by the due date. The OAG will **not** consider an Application if it is not in the manner and form as stated in the Application Kit.

**Minimum and Maximum Amounts of Funding Available:** The minimum amount of funding for all programs is \$125,000 per fiscal year. The maximum amounts of funding are as follows: new sexual assault program \$125,000 per fiscal year; and currently funded sexual assault programs \$735,000 per fiscal year.

Regardless of the maximums stated above, a currently funded sexual assault program may not apply, per fiscal year, for an amount higher than the SAPCS-State funds it received in fiscal year (FY) 2023. The award amount is determined solely by the OAG. The OAG may award grants at amounts above or below the established funding levels and is not obligated to fund a grant at the amount requested.

A currently funded program is one that has an active grant contract for FY 2023. Previous grantees that were not funded in FY 2023, or that de-obligated their contracts in FY 2023, will be considered new Applicants for this Application Kit.

**Start Date and Length of Grant Contract Period:** The grant contract period (term) is up to two years from September 1, 2023 through August 31, 2025, subject to and contingent on funding and/or approval by the OAG.

**No Match Requirements:** There are no match requirements.

**Award Criteria:** The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring components will include, but are not limited to, information provided by the Applicant on the proposed project activities and budget. Funding decisions will be determined using a competitive allocation method.

**Grant Purpose Area:** All grant projects must address one or more of the purpose areas as stated in the Application Kit.

**Prohibitions on Use of Grant Funds:** OAG grant funds may not be used to support or pay the costs of lobbying; indirect costs; fees to administer a subcontract; any portion of the salary or any other compensation for an elected government official; the purchase of food and beverages except as allowed under Texas State Travel Guidelines; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; costs of travel that are unrelated to the direct delivery of services that support the OAG grant-funded program; the costs for consultants or vendors who participate directly in writing a grant application; or for any unallowable costs set forth in applicable state or federal law, rules, regulations, guidelines, policies, procedures or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

**OAG Contact Information:** If additional information is needed, contact the Grants Administration Division at [Grants@oag.texas.gov](mailto:Grants@oag.texas.gov), or (512) 936-0792.

TRD-202302485  
Austin Kinghorn  
General Counsel  
Office of the Attorney General  
Filed: July 11, 2023



## Comptroller of Public Accounts

### Notice of General Meeting of the Multistate Tax Commission

Pursuant to Texas Tax Code, § 141.003, the comptroller provides notice of the general meeting of the Multistate Tax Commission.

The annual meeting of the commission will be held in person and virtually at 8:30 a.m., Wednesday, July 26, 2023.

The in-person meeting will be held at the Omni Austin Hotel Downtown, 700 San Jacinto, Austin, Texas 78701. Registration information for the Annual Meeting may be found at: <https://www.mtc.gov/events-training/56th-annual-meetings/>

For questions, please contact Shannon Brandt, Tax Policy Counsel, at [shannon.brandt@cpa.texas.gov](mailto:shannon.brandt@cpa.texas.gov)

Issued in Austin, Texas, on July 10, 2023.

TRD-202302477

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Filed: July 10, 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 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/17/23 - 07/23/23 is 18% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/17/23 - 07/23/23 is 18% for commercial<sup>2</sup> credit.

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

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

TRD-202302492

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 12, 2023



## Texas Education Agency

### Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Subchapter D New Operators (RFA #701-24-101)

Filing Authority. Texas Education Code, §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-24-101 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities. At least one member of the applicant team must attend one required applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, must attend. Two webinars will be held, one on Friday, July 28, 2023, and one on Friday, August 4, 2023. The public may par-

ticipate in the webinars by registering in advance at [https://zoom.us/join/zoom/register/WN\\_e22QZAOrTKy1xE\\_hkRmt3Q](https://zoom.us/join/zoom/register/WN_e22QZAOrTKy1xE_hkRmt3Q).

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 29 application cycle.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. An electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Friday, November 3, 2023, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is

based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and \$125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

**Selection Criteria.** A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. There are currently 180 charters approved under TEC, §12.101 (Subchapter D). There is a cap of 305 charters approved under TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-24-101 in May 2024.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The com-

missioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

**Requesting the Application.** An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Twenty-Nine Open-Enrollment Charter Application (RFA #701-24-101), which includes an application and guidance, may be obtained on the TEA website at [http://tea.texas.gov/Texas\\_Schools/Charter\\_Schools/](http://tea.texas.gov/Texas_Schools/Charter_Schools/).

**Further Information.** For clarifying information about the open-enrollment charter school application, contact the Division of Authorizing, Texas Education Agency, at (512) 463-9575 or [charterapplication@tea.texas.gov](mailto:charterapplication@tea.texas.gov).

Issued in Austin, Texas, on July 12, 2023.

TRD-202302497

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 12, 2023



**Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Texas Public Colleges or Universities and Texas Public Junior Colleges (RFA #701-24-102)**

**Filing Authority.** Texas Education Code, §12.152

**Eligible Applicants.** The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-24-102 from eligible entities to operate open-enrollment charter schools. Eligible entities are limited to Texas public colleges or universities and Texas public junior colleges. The supervising faculty member with oversight of the college of education requesting the charter must attend one required applicant information session webinar. Two webinars will be held, one on Friday, July 28, 2023, and one on Friday, August 4, 2023. The public may participate in the webinars by registering in advance at [https://zoom.us/webinar/register/WN\\_e22QZA-OrTKy1xE\\_hkRmt3Q](https://zoom.us/webinar/register/WN_e22QZA-OrTKy1xE_hkRmt3Q).

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 29 application cycle.

**Description.** The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. A public senior college or university, or public junior college open-enrollment charter school may operate on a campus of the public college or university, or public junior college or in the same county in which the public college or university, or public junior college is located and, under certain circumstances, elsewhere in the state.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability

system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. The electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Friday, November 3, 2023, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) Effective September 1, 2019, a charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and \$125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC

§48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29.

TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101 and §12.152. There are currently five charters approved under TEC, §12.152 (Subchapter E). There is no cap on the number of charters approved under TEC, §12.152. The commissioner is scheduled to consider awards under RFA #701-24-102 in May 2024.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication College or University Generation Twenty-Nine Open-Enrollment Charter Application (RFA #701-24-102), which includes an application and guidance, may be obtained on the TEA website at [http://tea.texas.gov/Texas\\_Schools/Charter\\_Schools/](http://tea.texas.gov/Texas_Schools/Charter_Schools/).

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Authorizing, Texas Education Agency, at (512) 463-9575 or [charterapplication@tea.texas.gov](mailto:charterapplication@tea.texas.gov).

Issued in Austin, Texas, on July 12, 2023.

TRD-202302496

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 12, 2023



Request for Applications (RFA) Concerning Generation Twenty-Nine Open-Enrollment Charter Application for Subchapter D Experienced Operators (RFA #701-24-107)

Filing Authority. Texas Education Code, §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-24-107 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities that are considered experienced operators and are operating or have operated a charter school in another portfolio or under another subchapter. At least one member of the applicant team must attend one required applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, must attend. Two webinars will be held, one on Friday, July 28, 2023, and one on Friday, August 4, 2023. The public may participate in the webinars by registering in advance at [https://zoom.us/webinar/register/WN\\_e22QZAOrTKy1xE\\_hkRmt3Q](https://zoom.us/webinar/register/WN_e22QZAOrTKy1xE_hkRmt3Q).

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 29 application cycle.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be

covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. An electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Friday, November 3, 2023, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and \$125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. There are currently 180 charters approved under TEC, §12.101 (Subchapter D). There is a cap of 305 charters approved under TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-24-107 in May 2024.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Twenty-Nine Open-Enrollment Charter Application (RFA #701-24-107), which includes an application and guidance, may be obtained on the TEA website at [http://tea.texas.gov/Texas\\_Schools/Charter\\_Schools/](http://tea.texas.gov/Texas_Schools/Charter_Schools/).

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Authorizing, Texas Education Agency, at (512) 463-9575 or [charterapplication@tea.texas.gov](mailto:charterapplication@tea.texas.gov).

Issued in Austin, Texas, on July 12, 2023.

TRD-202302498

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 12, 2023

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 21, 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 **August 21, 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: 410 WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-1007-PWS-E; IDENTIFIER: RN101439347; LOCATION: Detroit, Red River County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(e)(2), (h), and (i)(3), by failing to conduct water quality parameter sampling at each of the facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the executive director (ED) for the June 1, 2021 - November 30, 2021, monitoring period; 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2021 - December 31, 2021, monitoring period, during which the copper action level was exceeded; and 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2021 - December 31, 2021, monitoring period, during which the copper action level was exceeded; PENALTY: \$2,662; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$1,065; ENFORCEMENT COORDINATOR: Christiana McCrimmon, (512) 239-2811; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: A AMBE NAV DURGA BAPS, INCORPORATED dba AA Quickway; DOCKET NUMBER: 2022-0598-PST-E; IDENTIFIER: RN101433068; LOCATION: Keller, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Horus Garcia, (512) 239-1813; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: BOBCAT TRUCKING, INCORPORATED; DOCKET NUMBER: 2021-1574-EAQ-E; IDENTIFIER: RN111071429; LOCATION: Fair Oaks Ranch, Bexar County; TYPE OF FACILITY: commercial development project; RULE VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone; PENALTY: \$2,300; ENFORCEMENT COORDINATOR: John Thibodeaux, (409) 899-8753; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(4) COMPANY: City of Cameron; DOCKET NUMBER: 2023-0396-PWS-E; IDENTIFIER: RN101392215; LOCATION: Cameron, Milam County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Chiara Ballam, (512) 239-2812;



REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: City of Sinton; DOCKET NUMBER: 2022-0674-MWD-E; IDENTIFIER: RN101721330; LOCATION: Sinton, San Patricio 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 WQ0013641001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$27,313; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(6) COMPANY: City of Springtown; DOCKET NUMBER: 2022-0233-PWS-E; IDENTIFIER: RN101392397; LOCATION: Springtown, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(d)(3)(A), by failing to return spent backwash water and the liquids from sludge settling lagoons, spent backwash water tanks, sludge thickeners, and similar dewatering facilities to the raw waterline upstream of the raw water sample tap and coagulant feed point; 30 TAC §290.42(d)(5), by failing to provide flow-measuring devices to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, and the treated water discharged from the plant; and 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; PENALTY: \$1,740; ENFORCEMENT COORDINATOR: Samantha Duncan, (817) 588-5805; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Conecus LLC; DOCKET NUMBER: 2021-1628-AIR-E; IDENTIFIER: RN100804467; LOCATION: Terrell, Kaufman County; TYPE OF FACILITY: metallurgical recycling; RULE VIOLATED: Texas Health and Safety Code, §382.085(a) and (b), by failing to not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that caused or contributed to, or that will cause or contribute to, air pollution; PENALTY: \$35,250; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: El Paso Water Utilities Public Service Board; DOCKET NUMBER: 2022-0310-MWD-E; IDENTIFIER: RN103870341; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: wastewater treatment facility with an associated wastewater collection system; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010408009, Permit Conditions Numbers 2.d and 2.g, by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$2,016,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$2,016,000; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(9) COMPANY: JGE Gas Solutions, LP f/k/a American Midstream Gas Solutions, LP; DOCKET NUMBER: 2021-0187-AIR-E; IDENTIFIER: RN100237502; LOCATION: Longview, Gregg County; TYPE OF FACILITY: natural gas plant; RULES VIOLATED: 30 TAC §101.20(1) and §122.143(4), 40 Code of Federal Regulations (CFR) §60.4214(b), Federal Operating Permit (FOP) Number O3097, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 1.A, and Texas Health and Safety Code (THSC), §382.085(b), by failing to keep records of the operation of the engine

in emergency and non-emergency service that are recorded through the non-resettable hour meter; 30 TAC §§101.20(1) and (3), 116.115(c), and 122.143(4), 40 CFR §60.18(f)(2), New Source Review Permit Numbers 23110 and PSD-TX-835, Special Conditions Number 2, FOP Number O3097, GTC and STC Number 11, and THSC, §382.085(b), by failing to monitor the flare with a flame present at all times using a thermocouple or any other equivalent device to detect the presence of a flame; 30 TAC §§101.20(2), 113.1090, and 122.143(4), 40 CFR §63.6650(b)(3), FOP Number O3097, GTC and STC Numbers 1.A and 1.F, and THSC, §382.085(b), by failing to submit a semi-annual 40 CFR Part 63 Subpart ZZZZ compliance report; 30 TAC §§106.8(c)(2)(B), 106.512(2)(C)(i), and 122.143(4), FOP Number O3097, GTC and STC Number 1.A, and THSC, §382.085(b), by failing to create and maintain records for a period of at least two years and make available upon request to the commission and any local air pollution control agency having jurisdiction; 30 TAC §111.111(a)(4)(A)(ii) and §122.143(4), FOP Number O3097, GTC and STC Numbers 1.A and 3.A.(iv)(3), and THSC, §382.085(b), by failing to record at least 98% of the required daily flare observations in the flare operation log; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O3097, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$35,983; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(10) COMPANY: Kuraray America, Incorporated; DOCKET NUMBER: 2021-0569-AIR-E; IDENTIFIER: RN100212216; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing; RULES VIOLATED: 30 TAC §§106.6(c), 106.261, 116.115(b)(2)(F) and (c), and 122.143(4), Permit by Rule Registration Number 147121, New Source Review (NSR) Permit Number 9576, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O1561, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 16, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rate and certified emissions rate; and 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 9576, SC Number 1, FOP Number O1561, GTC and STC Number 16, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$22,125; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: Tommy Tackett dba Rock Island RV Park; DOCKET NUMBER: 2022-1715-PWS-E; IDENTIFIER: RN102092236; LOCATION: Boyd, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director (ED) for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's two public drinking water wells into service; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and THSC, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system; and 30 TAC §290.46(e)(4)(A) and THSC, §341.033(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 license issued by the ED; PENALTY: \$10,717; ENFORCEMENT COORDINATOR: Ashley Lemke, (512) 239-1118; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: Westwood Shores Municipal Utility District; DOCKET NUMBER: 2023-0338-PWS-E; IDENTIFIER: RN101175560; LOCATION: Trinity, Trinity County; TYPE OF

FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c) , by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running average; PENALTY: \$2,975; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202302482

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 11, 2023



## Enforcement Orders

An agreed order was adopted regarding HASSAN LLC dba Culebra Food Stop, Docket No. 2021-0084-PST-E on July 11, 2023 assessing \$6,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Municipal Utility District 284, Docket No. 2021-1167-MWD-E on July 11, 2023 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Laura Draper, 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 Jeffrey Cruise dba LONGHORN SEPTIC SERVICE, L.C. and Amanda Marie Cruise, Docket No. 2021-1253-SLG-E on July 11, 2023 assessing \$1,562 in administrative penalties with \$312 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, 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 South Texas Frac LLC, Docket No. 2021-1633-AIR-E on July 11, 2023 assessing \$1,225 in administrative penalties with \$245 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, 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 Thind Energy Inc dba On the Road 111, Docket No. 2022-1028-PST-E on July 11, 2023 assessing \$2,250 in administrative penalties with \$450 deferred. Information concerning any aspect of this order may be obtained by contacting Horus Garcia, 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 Cotton Center Water Supply Corporation, Docket No. 2022-1383-UTL-E on July 11, 2023 assessing \$610 in administrative penalties with \$122 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 Vidor Mhp No. 1, LLC, Docket No. 2022-1397-UTL-E on July 11, 2023 assessing \$520 in administrative penalties with \$104 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforce-

ment Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MONTGOMERY PLACE WATER SYSTEM, INC., Docket No. 2022-1510-UTL-E on July 11, 2023 assessing \$510 in administrative penalties with \$102 deferred. Information concerning any aspect of this order may be obtained by contacting Chiara Ballam, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Top-Way Materials LLC, Docket No. 2023-0045-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Katy Montgomery, 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 MESA GRANDE WATER SUPPLY CORPORATION, Docket No. 2023-0189-UTL-E on July 11, 2023 assessing \$600 in administrative penalties with \$120 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, 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 Jim Wells County Fresh Water Supply District 1, Docket No. 2023-0208-UTL-E on July 11, 2023 assessing \$645 in administrative penalties with \$129 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Devon Street Homes, L.P., Docket No. 2023-0283-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Justin Riley Calcote, Docket No. 2023-0285-WOC-E on July 11, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Tony Ray Lorance, Docket No. 2023-0298-WOC-E on July 11, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Miles Caston, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Hurtado Construction Company, Docket No. 2023-0350-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Monica Larina, 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 Gatesville, Docket No. 2023-0359-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Monica Larina, 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 Khalifa Inc, Docket No. 2023-0430-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Shane Glantz, 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 Gatesville, Docket No. 2023-0543-WQ-E on July 11, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202302505

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 12, 2023



### Notice of a Public Meeting on an Application for a Water Use Permit Application No. 13524

Waterstone Creek, LLC seeks authorization to construct and maintain a dam and reservoir on the South Llano River, Colorado River Basin, impounding 12.02 acre-feet of water for recreational purposes in Edwards County. Applicant will utilize a Firm Water Contract with the Lower Colorado River Authority to account for storage in the reservoir. More information on the application and how to participate in the permitting process is given below.

**APPLICATION.** Waterstone Creek, LLC, Applicant, 11610 Bistro Lane, Houston, Texas 72082, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code (TWC) § 11.121 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§295.1, *et seq.* Notice was published and mailed to the water rights holders of record in the Colorado River Basin pursuant to Title 30 TAC §295.151.

Waterstone Creek, LLC seeks authorization to construct and maintain a dam and reservoir on the South Llano River, Colorado River Basin, impounding 12.02 acre-feet of water, for recreational purposes in Edwards County, ZIP code 78880.

The centerline of the dam is located at Latitude 30.253005° N, Longitude 99.954751° W in Edwards County, in Zip Code 78880.

Applicant submitted a Firm Water Contract with the Lower Colorado River Authority to account for storage of state water in the reservoir.

Ownership of the land to be inundated is evidenced by a *General Warranty Deed* dated May 26, 2016, recorded as Volume 347, Page 477 in the Official Records of Edwards County.

The application and fees were received on September 6, 2018. Additional information was received on November 21 and November 26, 2018. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 10, 2019. Additional information was received on April 16, 2019.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/wr-apps-pub-notice](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice) Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk

by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

**PUBLIC COMMENT / PUBLIC MEETING.** You may submit public comments to the Office of the Chief Clerk at the address below. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the permit application and the Executive Director's recommendations, but the comments and questions submitted orally during the Informal Discussion Period will not be considered by the Commissioners and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period, members of the public may state their formal comments orally into the official record. The Executive Director will subsequently summarize the formal comments and prepare a written response which will be considered by the Commissioners before they reach a decision on the application. The Executive Director's written response will be available to the public online or upon request. The public comment period on this application concludes at the close of the public meeting.

### The Public Meeting is to be held:

Thursday, August 10, 2023 at 6:00 p.m.

Rocksprings ISD School Auditorium

201 North Highway 377

Rocksprings, Texas 78880

Additional information will be available on the agency calendar of events at the following link: <https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

**INFORMATION.** Citizens are encouraged to submit written comments anytime during the public meeting. Citizens may mail their comments to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or submit them electronically at <http://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13524 in the search field before the public comment period closes.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

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

Issued: July 06, 2023

TRD-202302503

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 12, 2023



### Notice of an Application for a Temporary Water Use Permit Application No. 13885

Notices Issued July 10, 2023

East Texas Acres, LTD. (Applicant), 1173 County RD 1092, Center, Texas 75935, seeks a temporary water use permit to divert and use not to exceed 225 acre-feet of water within a period of three years from a point on Patroon Bayou, tributary of the Sabine River, Sabine River Basin. More information on the application and how to participate in the permitting process is given below.

The application and fees were received on November 14, 2022. Additional information was received on, February 1, February 27, March 10, and April 24, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on May 04, 2023.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions and installation of a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, by July 28, 2023. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by July 28, 2023. The Executive Director may approve the application unless a written request for a contested case hearing is filed by July 28, 2023.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 13885 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at

[www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202302502

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 12, 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 173083

**APPLICATION.** TPG Pressure Inc, 800 County Road 209, Alvarado, Texas 76009-8028 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 173083 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 5150 Jefferson Chemical Road, Conroe, Montgomery County, Texas 77301. 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=-95.38944,30.317222&level=13>. This application was submitted to the TCEQ on June 12, 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 July 7, 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/](http://www14.tceq.texas.gov/epic/eComment/). Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

**The Public Hearing is to be held:**

**Monday, August 28, 2023, at 6:00 p.m.**

**The Lone Star Convention & Expo Center (San Jacinto #1 Room)**

**9055 Airport Road**

**Conroe, Texas 77303**

**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 Houston Regional Office, located at 5425 Polk Street, Suite H, Houston, Texas 77023-1452, 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 TPG Pressure, Inc., 800 County Road 209, Alvarado, Texas 76009-8028, or by calling Mr. Kenny Schappert, Vice President, Thompson Pipe Group, at (469) 313-2472.

Notice Issuance Date: July 7, 2023

TRD-202302504

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 12, 2023



#### Notice of Correction to Shutdown/Default Order Number 1

In the May 19, 2023, issue of the *Texas Register* (48 TexReg 2609), the Texas Commission on Environmental Quality (commission) published notice of a Shutdown/Default Order, specifically Item Number 1, for SABIR, INC. dba Stop N Drive 7; Docket Number 2021-0796-PST-E. The error is as submitted by the commission.

The reference to the Order Type should be corrected to read: "Default"

For questions concerning the error, please contact William Hogan at (512) 239-5918.

TRD-202302456

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 6, 2023



#### Notice of District Petition

Notice issued July 12, 2023

TCEQ Internal Control No. D-04252023-034; Ellison Collections, LLC, a Texas limited liability company (Petitioner) filed a petition for creation of Montgomery County Municipal Utility District No. 238 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas

Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Austin Bank, on the property to be included in the proposed District and the aforementioned entity has consented to the creation of the district; (3) the proposed District will contain approximately 87.662 acres of land located within Montgomery County, Texas; and (4) none of the land to be included within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the work proposed to be done by the District at the present time is the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, and such other purchase, construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, and road facilities and park and recreational facilities, as shall be consistent with all the purposes for which the District is created (the "Project"). Petitioner represents that Texas Water Utilities L.P., based in Houston, Texas, shall construct, acquire, own, operate, maintain, and improve as necessary the water supply system and wastewater treatment system to meet the demands of the District. Petitioner further represents that Texas Water Utilities L.P. has obligated itself to construct, acquire, own, operate, maintain, and improve as necessary the water supply system and wastewater treatment system by contract with the Petitioner. The District, at the present time, has no plans to purchase, construct, acquire, maintain, own, operate, repair, improve or extend a waterworks and sanitary sewer system for residential and commercial purposes, but shall reserve such ability should it need to do so in the future to meet demands of the District, including at such times when the District may expand its territory and potential residential and/or commercial customers. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$22,200,000 (including \$9,200,000 for water, wastewater, and drainage plus \$12,100,000 for roads and \$900,000 for recreational facilities).

#### 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](http://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 re-

quest 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](http://www.tceq.texas.gov).

TRD-202302506

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 12, 2023



### Notice of Opportunity to Comment on a Shutdown/Default Order of an Administrative Enforcement Action

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Shutdown/Default Order (S/DO). Texas Water Code (TWC), §26.3475, authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill, and overflow prevention, and/or after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an 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. In accordance with 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 **August 21, 2023**. The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/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 S/DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed S/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 S/DO shall be sent to the attorney designated for the S/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 August 21, 2023**. The commission's attorney is available to discuss the S/DO and/or the

comment procedure at the listed phone number; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: Sheri Chapman; DOCKET NUMBER: 2022-0116-PST-E; TCEQ ID NUMBER: RN102241619; LOCATION: 18162 Gholson Road, Waco, McLennan County; TYPE OF FACILITY: out-of-service UST system; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(2) and §334.54(b)(3), by failing to provide corrosion protection for the out-of-service UST system; and 30 TAC §37.867(a), by failing to empty the UST system within 90 days after financial assurance coverage terminates; PENALTY: \$3,937; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202302453

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 6, 2023



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

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 21, 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 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 August 21, 2023**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: CIRCLE K STORES INC. dba Circle K Store 2704686 and dba Circle K Store 2704676; DOCKET NUMBER: 2019-1448-PST-E; TCEQ ID NUMBERS: RN101992360 and RN105829030; LOCATIONS: 6107 West Parmer Lane, Austin, Travis County (Facility 1 - Circle K Store 2704686) and 3817 Williams Drive, Georgetown, Williamson County (Facility 2 - Circle K Store 2704676); TYPE OF FACILITY: underground storage tank (UST) systems and convenience stores with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by

failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days (Facility 1); TWC, §26.3475(c)(2) and 30 TAC §334.51(a)(6), by failing to assure that all installed spill and overflow prevention devices are maintained in good operating condition (Facility 1); TWC, §26.3475(d) and 30 TAC §334.49(b)(2), by failing to maintain all components of a UST system electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or any other water, and from other metallic components (Facility 1); 30 TAC §334.7(d)(1)(F) and (3), by failing to provide written notice of any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition (Facility 1); and TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(B), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for USTs installed on or after January 1, 2009, by no later than September 1, 2018 (Facility 2); PENALTY: \$29,625; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, (512) 339-2929.

(2) COMPANY: Ruby Hamilton Minard, Executrix of the Estate of Ralph A. Minard II and Minard II, LLC; DOCKET NUMBER: 2020-1297-PST-E; TCEQ ID NUMBER: RN111039830; LOCATION: 11640 Old Corpus Christi Highway, San Antonio, Bexar County; TYPE OF FACILITY: unregistered underground storage tank (UST) system; RULES VIOLATED: 30 TAC §334.7(a)(1), by failing to register a UST in existence on or after September 1, 1987, with the agency on authorized agency forms; 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and 30 TAC §334.75(b), by failing to contain and immediately cleanup a spill or overflow of any petroleum substance from an UST that is less than 25 gallons; PENALTY: \$11,250; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202302454

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 6, 2023



#### Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed 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 **August 21, 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 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 August 21, 2023**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Nortex RediMix, LLC; DOCKET NUMBER: 2021-1029-AIR-E; TCEQ ID NUMBER: RN109942433; LOCATION: 10850 Luna Road, Dallas, Dallas County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: Texas Health and Safety Code, §382.085(b), 30 TAC §116.115(b)(2)(E) and (c) and §116.615(8), and Standard Permit Registration Number 148415, Amendments to the Air Quality Standard Permit for Concrete Batch Plants, Special Conditions Number (3)(J), by failing to maintain written records sufficient to demonstrate applicability of and compliance with the standard permit; PENALTY: \$27,500; STAFF ATTORNEY: Katherine Keithley, Litigation, MC 175, (512) 239-0620; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202302483

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 11, 2023



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 21, 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 each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 21, 2023**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission **in writing**.

(1) COMPANY: Dolores Luke dba Little Big Horn Services; DOCKET NUMBER: 2022-0412-MLM-E; TCEQ ID NUMBER: RN101228740; LOCATION: 9700 Little Big Horn Drive near Silsbee, Hardin County; TYPE OF FACILITY: public water system (PWS); RULES VIOLATED: 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director (ED) upon request; 30 TAC §290.46(p)(2), by failing to provide the ED with a list of all the operators and operating companies that the PWS uses on an annual basis; Texas Health and Safety Code, §341.0351 and 30 TAC §290.39(j), by failing to notify the ED prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §290.42(j), by failing to use an approved chemical or media for the disinfection of potable water that conforms to American National Standards Institute/National Sanitation Foundation Standard 60 for Drinking Water Treatment Chemicals; 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; and 30 TAC §288.20(c), by failing to review and update, as appropriate, the drought contingency plan at least every five years; PENALTY: \$1,491; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Wing Dingers Texas LLC. and Christopher R. Fischer; DOCKET NUMBER: 2021-0200-PWS-E; TCEQ ID NUMBER: RN108926569; LOCATION: 700 Northwest Loop 564, Mineola, Wood County; TYPE OF FACILITY: public water system (PWS); RULES VIOLATED: Texas Health and Safety Code, §341.035(a) and 30 TAC §290.39(e)(1) and (h)(1), by failing to submit plans and specifications to the executive director for review and approval prior to the construction of a new PWS; PENALTY: \$250; STAFF ATTORNEY: Clayton Smith, Litigation, MC 175, (512) 239-6224; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202302455

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 6, 2023



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 21, 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 each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 21, 2023**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission **in writing**.

(1) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1259-UTL-E; TCEQ ID NUMBER: RN104443734; LOCATION: 1785 Limestone County Road 822 near Groesbeck, Limestone County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$510; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1266-UTL-E; TCEQ ID NUMBER: RN105600639; LOCATION: approximately 50 yards north of the intersection of County Road 160 and County Road 162 near San Diego, Jim Wells County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$650; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Corpus Christi Regional Office, 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(3) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1277-UTL-E; TCEQ ID NUMBER: RN101225753; LOCATION: 0.8 miles south of the intersection of Wolf Lane and State Highway 6 near



Valley Mills, McLennan County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$610; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1328-UTL-E; TCEQ ID NUMBER: RN102691243; LOCATION: 47 Pine Drive North, New Waverly, Walker County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$560; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1329-UTL-E; TCEQ ID NUMBER: RN102691995; LOCATION: 0.02 miles north of the intersection of Tara Park Drive and Porter Road, Hempstead, Waller County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$560; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: SRC Water Supply Inc; DOCKET NUMBER: 2022-1332-UTL-E; TCEQ ID NUMBER: RN105878870; LOCATION: 774 County Road 2050, Center, Shelby County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$640; STAFF ATTORNEY: Megan L. Grace, Litigation, MC 175, (512) 239-3334; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(7) COMPANY: Waynette Pollock Brasuell a/k/a Waynette Isaacks; DOCKET NUMBER: 2022-0086-PST-E; TCEQ ID NUMBER: RN101785632; LOCATION: approximately 343 feet northwest of the intersection of Main Street and Farm-to-Market Road 1745, Chester, Tyler County; TYPE OF FACILITY: real property and an underground storage tank (UST) system; RULE VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable components of the system is not brought into timely compliance with upgrade requirements; PENALTY: \$3,750; STAFF ATTORNEY: Katherine Keithley, Litigation, MC 175, (512) 239-0620; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202302484

Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: July 11, 2023

◆ ◆ ◆  
**General Land Office**

**Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program**

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of June 25, 2023 to July 7, 2023. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.25, 30.32, and 30.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, July 14, 2023. The public comment period for this project will close at 5:00 p.m. on Sunday, August 13, 2023.

**FEDERAL AGENCY ACTIONS:**

**Applicant:** Pelican Pointe Properties, LLC

**Location:** The project site is located in Oyster Creek, at 818 CR 792, in Oyster Creek, Brazoria County, Texas.

**Latitude and Longitude:** 29.010585, -95.316803

**Project Description:** The applicant proposes mechanically excavating approximately 4,490 cubic yards (CY) of uplands and 65 CY of open water to extend a residential canal off Oyster Creek. The applicant proposes to discharge the material onto a 1.84-acre immediately adjacent upland placement area. The applicant also proposes to install 3,240 linear feet of bulkhead within the extended canal and surrounding the existing peninsula. Approximately 595 CY of material will be placed below the High Tide Line (HTL) of Oyster Creek and 7,667 CY of material will be placed above the HTL for lot grading to support future residential infrastructure including concrete roads, private water systems, and electrical distribution lines. A total of 0.086 acres of special aquatic sites will be filled as a result of this project.

The applicant has stated that they have avoided and minimized the environmental impacts by keeping the total quantity of special aquatic sites filled to less than 0.1 acre. The project has also been sited, designed, and will be constructed to the greatest extent practicable to avoid and otherwise minimize potential for adverse effects from: construction and maintenance of other development associated with the facility; direct release to coastal waters and critical area of pollutants from oil or hazardous substance spills or stormwater runoff; and deposition of airborne pollutants in coastal waters and critical areas. Mitigation has not been proposed for this project.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2023-00029. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 23-1310-F1

**Applicant:** City of Port Aransas

**Location:** The project site is located in wetlands and open water adjacent to Corpus Christi Bay, at a point near 1002 TX-361, in Port Aransas, Nueces County, Texas.

**Latitude and Longitude:** 27.826752, -97.070084

**Project Description:** The applicant proposes to mechanically excavate a total of 1,333 cubic yards of material to create a drainage channel, Outfall 12B, that is at a maximum of 62-foot-wide at the top, 28-foot-wide at the bottom, and 3-foot deep. The excavation will temporarily impact a total of 0.92 acre and permanently impact a total of 0.41 acre of estuarine intertidal marsh and open water.

The applicant has stated that they have avoided and minimized the environmental impacts by operating from uplands to the greatest extent possible and accessing the project location with all machinery and equipment from construction access route located perpendicular to State Highway 361 (Alister Street). The applicant also stated they will utilize best management practices such as silt fencing or curtains during construction to minimize impacts to temporarily disturbed areas and reduce stormwater runoff of disturbed soils into avoided areas. The applicant stated the machinery will operate on timber matting within wetland areas and disturbed areas will be restored to pre-construction contours and allowed to revegetated naturally.

The applicant proposed to mitigate for impacts occurring from this Outfall 12B project and the Outfall 3 project, SWG-2023-00181, at the same permittee responsible tract. The permittee responsible tract is located at a point, 27.865966° North, 097.341019° West, which is 1.2 miles southwest of Portland, Texas situated adjacent to Nueces Bay, in the North Corpus Christi Bay watershed (HUC 12110201). The location of the permittee responsible tract is illustrated on Pages 10-12 of the project plans.

The impacts from Outfall 3 (0.68-acre) and Outfall 12B (0.41-acre) is a total loss of 0.68 acre of estuarine intertidal marsh. The applicant proposes to restore 1 acre of smooth cordgrass marsh for the loss of estuarine marsh. To protect the plant community and project site from off-road vehicle trespass, bollards will be installed at 30-foot intervals along the boundary line. The applicant stated that the 0.25 acre of excavation within the existing open water canals or ditches is not proposed for mitigation as no loss of function would occur.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2023-00179. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**CMP Project No:** 23-1311-F1

**Applicant:** Houston Audubon Society

**Location:** The project site is located in the Gulf of Mexico, approximately 1.4 miles south of the intersection of Texas State Highway 87 and Rettilon Road, in Port Bolivar, Galveston County, Texas.

**Latitude and Longitude:** 29.37212, -94.72784

**Project Description:** The applicant proposes to modify Department of the Army (DA) Permit SWG-1993-00438 to reconstruct and extend a vehicular barrier for the protection of a wildlife sanctuary. This barrier will consist of wooden pilings spaced 2-3 feet apart and extending from the mean higher high-water line to 100 yards seaward of the mean higher high-water line of the Gulf Mexico. The pilings will be installed via water jetting and hammer pile driving. The pilings will be 8-10 inches in diameter and placed 8 to 10 feet deep.

The applicant has stated that they have avoided and minimized the environmental impacts by designing the project that would not adversely affect critical habitat. The applicant has not proposed any compensatory mitigation.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-1993-00438. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 23-1313-F1

**Applicant:** Port of Beaumont Navigation District

**Location:** The project site is located in the Sabine-Neches Waterway, at 1225 Main Street, in Beaumont, Jefferson County, Texas.

**Latitude and Longitude:** 30.075713, -94.085002

**Project Description:** The applicant proposes to install 4 new monopiles with tire fenders and a new pile support relieving platform in the Sabine-Neches Waterway immediately adjacent to a loading dock. This is a modification to a previously authorized permit.

The applicant has stated that the project will not interfere with navigation, natural coastal processes, and avoids/minimizes shading. Due to the size and scope of the project, there is little potential to affect resources. No mitigation is proposed.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG- 997-01754. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 23-1314-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202302493

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: July 12, 2023

## Texas Health and Human Services Commission

### Public Notice - Amendment of the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) Waiver

In response to the public health emergency (PHE) resulting from COVID-19 which ended in May 2023, the Texas Health and Human Services Commission (HHSC) submitted a request to the Centers for Medicare & Medicaid Services (CMS) for an amendment to the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) waiver administered under section 1115 of the Social Security Act. The request was submitted on April 5, 2023, through an Appendix K. HHSC submitted the amendment to comply with federal documentation requirements and close out remaining flexibilities implemented during the PHE. The proposed effective date for this amendment is March 13, 2020. The proposed end date is August 31, 2023.

HHSC requested approval to implement retroactively the following changes to the THTQIP Special Term and Condition (STC) 28 (b)(i)(1),

Interest List for STAR+PLUS 217-Like Home and Community-Based Services (HCBS) Group.

#### Proposed Changes

This amendment requested flexibility regarding STAR+PLUS HCBS members with Medical Assistance Only (MAO) (described as 217-Like in the THTQIP 1115 waiver) who left a nursing facility without community eligibility (STAR+PLUS HCBS) in place due to concerns about COVID-19 or in accordance with local orders during the early stages of the PHE. These MAO members were allowed to bypass the interest list and apply for STAR+PLUS HCBS.

The Appendix K may be utilized by the state during emergency situations to request an amendment to its approved 1115 waiver and may be completed retroactively as needed by the state.

Pursuant to 42 CFR §431.416(g), CMS determined the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite a decision on proposed COVID-19 section 1115 Appendix K amendments. Therefore, the public notice requirements normally applicable do not apply to this COVID-19 section 1115 Appendix K amendment.

An individual may obtain a free copy of the proposed waiver amendment, ask questions, or obtain additional information regarding this amendment by contacting Julyya Alvarez by U.S. mail, telephone, fax, or email. The addresses are as follows:

#### U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator

701 W. 51st Street

Mail Code: H310

Austin, Texas 78751

Email TX\_Medicaid\_Waivers@hhsc.state.tx.us.

Telephone (512) 438-4330

Fax (512) 323-1905

TRD-202302488

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: July 11, 2023



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

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendments will be effective September 1, 2023.

The purpose of the amendments is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following services:

Ambulance Services;

Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT);

Home Health Services; and

Physicians and Other Practitioners.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$303,485 for federal fiscal year (FFY) 2023, consisting of \$189,284 in federal funds and \$114,201 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is \$3,603,160 consisting of \$2,180,993 in federal funds and \$1,422,167 in state general revenue. For FFY 2025, the estimated annual aggregate expenditure is \$3,564,968 consisting of \$2,144,328 in federal funds and \$1,420,640 in state general revenue. These modifications are to comply with House Bill 1 (H.B.1) Riders 31(a), 31(b), 33, and 34, 88th Legislature, Regular Session 2023.

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

#### Rate Hearing.

A Rate Hearing was conducted in person and online on July 11, 2023. Information about the proposed rate changes and hearings were published in the June 23, 2023, issue of the *Texas Register* (48 TexReg 3428-3429). Additional information and the notice of hearings can be found at <https://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings will be found at <https://www.hhs.texas.gov/about/meetings-events>.

#### Copy of Proposed Amendment.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at [Medicaid\\_Chip\\_SPA\\_Inquiries@hhsc.state.tx.us](mailto: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 the 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: Provider Finance Department

Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance Department

North Austin Complex

Mail Code H-400

4601 W. Guadalupe St.

Austin, Texas 78751

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

Fax

Attention: Provider Finance at (512) 730-7475

Email  
PFDAcuteCare@hhs.texas.gov

Preferred Communication.

For quickest response, please use e-mail or phone, if possible, for communication with HHSC related to this state plan amendment.

TRD-202302479

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: July 10, 2023



## Texas Higher Education Coordinating Board

### Meeting of Negotiated Rulemaking Committee on Research Funds Implementation (HB 1595)

Date of Meeting: August 3, 2023

Start Time of Meeting: 09:30 A.M.

Location: Meeting will be held via video conference. A link to the video conference will be available at <https://www.highered.texas.gov/>

Additional Information Obtained From: Laurie Frederick, Convener, (512) 427-6446, [Laurie.Frederick@highered.texas.gov](mailto:Laurie.Frederick@highered.texas.gov)

Agenda:

1. Introductions
2. Brief Overview of the Negotiated Rulemaking Process: What it is, What it's not
3. Brief Overview of Roles and Responsibilities
  - a) Role of Facilitator
  - b) Role of Sponsor Agency
  - c) Role of Committee Members
4. Consideration and Possible Action to Approve Facilitator
5. Procedural Issues
  - a) Consideration and Possible Action to Approve Ground Rules
  - b) Consideration and Possible Action to Approve Definition of Consensus
6. Discussion of Draft Rule Language on Research Funds Implementation (HB 1595)
7. Consideration and Possible Action to Approve Proposed Rule Language on Research Funds Implementation (HB 1595)

Individuals who may require auxiliary aids or services for this meeting should contact Glenn Tramel, ADA Coordinator, at (512) 427-6193 at least five days before the meeting so that appropriate arrangements can be made.

All persons requesting to address the Committee regarding an item on this agenda should do so in writing at least 24 hours before the start of the meeting at [Laurie.Frederick@highered.texas.gov](mailto:Laurie.Frederick@highered.texas.gov). A toll-free telephone number, free-of-charge video conference link, or other means will be provided by which to do so.

TRD-202302508

Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Filed: July 12, 2023



### Meeting of Negotiated Rulemaking Committee on Texas Educational Opportunity Grant

Date of Meeting: August 2, 2023

Start Time of Meeting: 09:30 A.M.

Location: Meeting will be held via video conference. A link to the video conference will be available at <https://www.highered.texas.gov/>

Additional Information Obtained From: Laurie Frederick, Convener, (512) 427-6446, [Laurie.Frederick@highered.texas.gov](mailto:Laurie.Frederick@highered.texas.gov)

Agenda:

1. Introductions
2. Brief Overview of the Negotiated Rulemaking Process: What it is, What it's not
3. Brief Overview of Roles and Responsibilities
  - a) Role of Facilitator
  - b) Role of Sponsor Agency
  - c) Role of Committee Members
4. Consideration and Possible Action to Approve Facilitator
5. Procedural Issues
  - a) Consideration and Possible Action to Approve Ground Rules
  - b) Consideration and Possible Action to Approve Definition of Consensus
6. Discussion of Draft Rule Language on Texas Educational Opportunity Grant
7. Consideration and Possible Action to Approve Proposed Rule Language on Texas Educational Opportunity Grant

Individuals who may require auxiliary aids or services for this meeting should contact Glenn Tramel, ADA Coordinator, at (512) 427-6193 at least five days before the meeting so that appropriate arrangements can be made.

All persons requesting to address the Committee regarding an item on this agenda should do so in writing at least 24 hours before the start of the meeting at [Laurie.Frederick@highered.texas.gov](mailto:Laurie.Frederick@highered.texas.gov). A toll-free telephone number, free-of-charge video conference link, or other means will be provided by which to do so.

TRD-202302507  
Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Filed: July 12, 2023



## Texas Department of Insurance

### Company Licensing

Application to do business in Texas for XLNT Insurance Company, a foreign fire and/or casualty company. The home office is in Derry, New Hampshire.

Application for Community Health Choice Texas, Inc., a domestic Health Maintenance Organization (HMO), DBA (doing business as) Community Health Choice. The home office is in Houston, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202302501

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: July 12, 2023



## Texas Lottery Commission

Scratch Ticket Game Number 2501 "HOUSTON TEXANS"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2501 is "HOUSTON TEXANS". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2501 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2501.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, FOOTBALL SYMBOL, GOALPOST SYMBOL, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$5,000 and \$100,000.

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

Figure 1: GAME NO. 2501 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV

26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
FOOTBALL SYMBOL	WIN\$
GOALPOST SYMBOL	WINX5
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$5,000	FVTH
\$100,000	100TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The

Serial Number is for validation purposes and cannot be used to play the game. The format will be: 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 (2501), 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: 2501-0000001-001.

H. Pack - A Pack of "HOUSTON TEXANS" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

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 "HOUSTON TEXANS" Scratch Ticket Game No. 2501.

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 "HOUSTON TEXANS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-five (45) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "FOOTBALL" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "GOALPOST" Play Symbol, the player wins 5 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

### 2.1 Scratch Ticket Validation Requirements.

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

1. Exactly forty-five (45) 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 forty-five (45) 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 forty-five (45) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the forty-five (45) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

### 2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

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



C. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 05 and \$5).

D. KEY NUMBER MATCH: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

E. KEY NUMBER MATCH: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

F. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

G. KEY NUMBER MATCH: A Ticket may have up to four (4) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. KEY NUMBER MATCH: The "FOOTBALL" (WINS) Play Symbol may appear multiple times on winning Tickets, unless restricted by other parameters, play action or prize structure.

I. KEY NUMBER MATCH: The "GOALPOST" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

J. KEY NUMBER MATCH: The "FOOTBALL" (WINS) and "GOALPOST" (WINX5) Play Symbols can appear together on the same Ticket.

### 2.3 Procedure for Claiming Prizes.

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

B. To claim a "HOUSTON TEXANS" Scratch Ticket Game prize of \$5,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HOUSTON TEXANS" 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 "HOUSTON TEXANS" 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 "HOUSTON TEXANS" 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 "HOUSTON TEXANS" 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 5,400,000 Scratch Tickets in the Scratch Ticket Game No. 2501. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2501 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	576,000	9.38
\$10.00	648,000	8.33
\$20.00	144,000	37.50
\$50.00	33,750	160.00
\$100	20,655	261.44
\$500	1,133	4,766.11
\$5,000	10	540,000.00
\$100,000	4	1,350,000.00

\*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 3.79. 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. 2501 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. 2501, 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-202302494  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 12, 2023

◆ ◆ ◆

**Texas Parks and Wildlife Department**  
 Notice of Proposed Real Estate Transactions  
 Acquisition of Land - Mitchell County

### **Approximately 500 Acres at Lake Colorado City State Park**

In a meeting on August 24, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 500 acres at Lake Colorado City State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Trey Vick, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to [trey.vick@tpwd.texas.gov](mailto:trey.vick@tpwd.texas.gov), or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov). Visit the TPWD website at [tpwd.texas.gov](http://tpwd.texas.gov) for the latest information regarding the Commission meeting.

### **Acquisition of Land - Cameron County**

#### **Approximately 42 Acres at Las Palomas Wildlife Management Area**

In a meeting on August 24, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 42 acres at the Las Palomas Wildlife Management Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to [stan.david@tpwd.texas.gov](mailto:stan.david@tpwd.texas.gov), or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov). Visit the TPWD website at [tpwd.texas.gov](http://tpwd.texas.gov) for the latest information regarding the Commission meeting.

#### **Acquisition of Cultural Conservation Easement - Anderson County**

#### **Approximately 16 Acres at Big Lake Bottom WMA**

In a meeting on August 24, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of an approximately 16-acre Cultural Conservation Easement at Big Lake Bottom WMA. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to [stan.david@tpwd.texas.gov](mailto:stan.david@tpwd.texas.gov), or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov). Visit the TPWD website at [tpwd.texas.gov](http://tpwd.texas.gov) for the latest information regarding the Commission meeting.

#### **Grant of Pipeline Easement - Jefferson County**

#### **Approximately 15.9 Acres at the J.D. Murphree Wildlife Management Area**

In a meeting on August 24, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the grant of a pipeline easement to Sempra LNG of approximately 15.9 acres at the J.D. Murphree Wildlife Management Area. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin,

Texas 78744, or by email to [Jason.estrella@tpwd.texas.gov](mailto:Jason.estrella@tpwd.texas.gov), or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov). Visit the TPWD website at [tpwd.texas.gov](http://tpwd.texas.gov) for the latest information regarding the Commission meeting.

### **Grant of Utility Easement - El Paso County**

#### **Approximately 1 Acre at Franklin Mountains State Park**

In a meeting on August 24, 2023, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the grant of a utility easement to El Paso Electric of approximately 1 acre at Franklin Mountains State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Jason Estrella, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to [Jason.estrella@tpwd.texas.gov](mailto:Jason.estrella@tpwd.texas.gov), or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov). Visit the TPWD website at [tpwd.texas.gov](http://tpwd.texas.gov) for the latest information regarding the Commission meeting.

TRD-202302489

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: July 12, 2023



## **Red River Authority of Texas**

### **Request for Statement of Qualifications for Engineering and Environmental Professional Services**

The Red River Authority of Texas (RRA) is currently soliciting Statements of Qualifications (SOQ) for selecting a pool of qualified Engineering Firms to provide Engineering Professional Services and Environmental Firms to provide Environmental Professional Services on an as-needed basis.

Firms should have a strong record in the development and implementation of water, wastewater, and asset programs, and in the implementation of environmental services, and other professional services for water resource agencies. The purpose of this program is to provide resources to assist RRA with technical issues as they arise for a five-year period beginning November 1, 2023, and ending October 31, 2028. Once the qualified pool of consultants is established and ranked, RRA will assign projects based upon the consultant's specialized expertise, experience, and availability to perform and complete the services in a timely manner at a fair and reasonable price. The selected firms will enter into engagement contracts for the task, as assigned. Such contracts will assist RRA in engineering design and regulatory services for all of RRA's operational and administrative facilities, in developing environmental program research and assessments, and in other professional or engineering services, as needed.

Additional information on the RFQ can be found at <https://www.rra.texas.gov/RFQs/RFQ-Engineering%20and%20Professional%20Services.pdf>.

Respondents must submit **one (1) electronic copy and five (5) hard copies of their Statement of Qualifications by 3:00 p.m. on Monday, August 7, 2023.** All responses should be submitted to:

Mr. Fabian Heaney, Assistant General Manager

Red River Authority of Texas

Mailing: P.O. Box 240

Wichita Falls, Texas 76307  
Physical: 3000 Hammon Road  
Wichita Falls, Texas 76310  
TRD-202302433  
Randy Whiteman  
General Manager  
Red River Authority of Texas  
Filed: July 5, 2023

*(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," this order is not included in the print version of the Texas Register. The order is available in the on-line version of the July 21, 2023, issue of the Texas Register.)*

TRD-202302464  
Jaclyn Daumerie  
Rules Attorney  
Supreme Court of Texas  
Filed: July 7, 2023

◆ ◆ ◆  
**Supreme Court of Texas**

Order Approving Revised Will Forms

## 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)

## SALES AND CUSTOMER SUPPORT

Sales - To purchase subscriptions or back issues, you may contact LexisNexis Sales at 1-800-223-1940 from 7 a.m. to 7 p.m., Central Time, Monday through Friday. Subscription cost is \$502 annually for first-class mail delivery and \$340 annually for second-class mail delivery.

Customer Support - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7 a.m. to 7 p.m., Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: [customer.support@lexisnexis.com](mailto:customer.support@lexisnexis.com)

Website: [www.lexisnexis.com/printedsc](http://www.lexisnexis.com/printedsc)



LexisNexis