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# TEXAS REGISTER

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# TEXAS REGISTER

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# THE GOVERNOR

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

## Appointments

### Appointments for July 22, 2023

Appointed as Judge of the 97th Judicial District, Archer, Clay, and Montague Counties, for a term until December 31, 2024, or until her successor shall be duly elected and qualified, Patricia "Trish" Coleman Byars of Windhorst, Texas (replacing Judge Jack A. McGaughey of Nocona, who resigned).

Appointed as Presiding Judge of the Seventh Administrative Judicial District for a term to expire four years from the date of qualification, Garland B. "Ben" Woodward of San Angelo, Texas (replacing Judge Morton V. "Dean" Rucker, II of Midland, whose term expired).

Appointed to the Texas Facilities Commission for a term to expire January 31, 2027, Robert S. Wetmore of Austin, Texas (replacing Lawrence B. "Larry" Long of Dallas, who resigned).

Appointed to the Texas Board of Professional Geoscientists for a term to expire February 1, 2029, Danielle M. "Danny" Kingham of Pearland, Texas (replacing Becky L. Johnson of Fort Worth, whose term expired).

Appointed to the Texas Board of Professional Geoscientists for a term to expire February 1, 2029, Samuel S. "Sam" McGee of Boerne, Texas (replacing Brandon B. Stowers of Denton, whose term expired).

Appointed to the Texas Higher Education Coordinating Board for a term to expire August 31, 2025, Ashlie A. Thomas of Victoria, Texas (replacing R. Sam Torn of Houston, who resigned).

Appointed to the Texas Higher Education Coordinating Board for a term to expire August 31, 2027, Stacy A. Hock of Austin, Texas (replacing Robert P. Gauntt of Austin, who resigned).

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2027, Ellen A. Amirkhan of Dallas, Texas (replacing Shelley S. Sweatt, Ed.D. of Wichita Falls, who resigned).

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2029, Bernadette Carrasco Coleman of Denton, Texas (Ms. Coleman is being reappointed).

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2029, Jill E. Jester of Denton, Texas (Ms. Jester is being reappointed).

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2029, Kathleen J. Wu of Dallas, Texas (Ms. Wu is being reappointed).

### Appointments for July 27, 2023

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2029, Nathanael W. "Nate" Sprinkle of Richmond, Texas (replacing Larry Don Miles of Amarillo, whose term expired).

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2029, William O. "Bill" Welch of Austin, Texas (replacing Patrick L. O'Daniel of Austin, whose term expired).

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2029, Sydney J. Zuiker of Houston, Texas (replacing Emilio E.F. "Mano" DeAyala of Houston, whose term expired).

Designating Eric J.R. Nichols of Austin as presiding officer of the Texas Board of Criminal Justice for a term to expire at the pleasure of the Governor. Mr. Nichols is replacing Patrick L. O'Daniel of Leander as presiding officer.

### Appointments for July 31, 2023

Appointed to the Texas Historical Commission for a term to expire February 1, 2029, Garrett K. Donnelly of Midland, Texas (Mr. Donnelly is being reappointed).

Appointed to the Texas Historical Commission for a term to expire February 1, 2029, Fritz L. Duda of Dallas, Texas (Mr. Duda is replacing Daisy Sloan White of College Station, whose term expired).

Appointed to the Texas Historical Commission for a term to expire February 1, 2029, Edward C. "Ted" Houghton, IV of El Paso, Texas (Mr. Houghton is replacing Earl P. Broussard, Jr. of Westlake Hills, whose term expired).

Appointed to the Texas Historical Commission for a term to expire February 1, 2029, Laurie E. Limbacher of Austin, Texas (Ms. Limbacher is being reappointed).

Appointed to the Texas Historical Commission for a term to expire February 1, 2029, Catherine M. "Cathy" McKnight of Dallas, Texas (Ms. McKnight is being reappointed).

### Appointments for August 1, 2023

Pursuant to HB 3257, 87th Legislature, Regular Session, appointed to the Texas Holocaust, Genocide, and Antisemitism Advisory Commission for a term to expire on February 1, 2027, Roger P. Nober of Fort Worth, Texas.

### Appointments for August 2, 2023

Appointed to the Texas Diabetes Council for a term to expire February 1, 2029, Christopher R. "Chris" Carmona of Houston, Texas (replacing Feyi Obamehinti, Ed.D. of Keller, whose term expired).

Appointed to the Texas Diabetes Council for a term to expire February 1, 2029, Sharon F. Lemons of Saginaw, Texas (replacing Ardis A. Reed of Hideaway, whose term expired).

Appointed to the Texas Diabetes Council for a term to expire February 1, 2029, John Trischitti, III of Midland, Texas (replacing Felicia Fruia-Edge of Rancho Viejo, whose term expired).

Greg Abbott, Governor

TRD-202302739



Proclamation 41-3991

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for those counties and for all state agencies affected by this disaster; and

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

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a disaster for Bee, Brewster, Brooks, Caldwell, Cameron, Chambers, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, El Paso, Frio, Galveston, Goliad, Gonzales, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Patricio, Schleicher, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala Counties and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed in subsequent proclamations, are in full force and effect.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of July, 2023.

Greg Abbott, Governor  
TRD-202302704



Proclamation 41-3992

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

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Andrews, Bandera, Bell, Bexar, Blanco, Burnet, Cameron, Colorado, Comal, Comanche, Coryell, Eastland, Ector, Edwards, Erath, Gaines, Gillespie, Hamilton, Hays, Hidalgo, Jeff Davis, Kendall, Kerr, Kimble, Lampasas, Llano, Mason, Matagorda, Medina, Midland, Mills, Parker, Real, Travis, Waller, Wharton, and Williamson Counties.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of July, 2023.

Greg Abbott, Governor  
TRD-202302705



# THE ATTORNEY GENERAL

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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>.)

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## Requests for Opinions

### **RQ-0002-AC**

#### **Requestor:**

The Honorable Matthew A. Mills

Hood County Attorney

1200 West Pearl Street

Granbury, Texas 76048

Re: Authority of the Hood County Development District Number 1 to add an additional member to its board of directors under Local Government Code chapter 383 (RQ-0002-AC)

### **Briefs requested by August 30, 2023**

### **RQ-0003-AC**

#### **Requestor:**

The Honorable Eddie Arredondo

Burnet County Attorney

220 South Pierce

Burnet, Texas 78611

Re: Authority of a home-rule municipality to require a certificated telecommunications provider or the holder of a state-issued certificate

of franchise authority to enter into a Broadband Internet Services Right-of-Way Agreement (RQ-0003-AC)

### **Briefs requested by August 30, 2023**

### **RQ-0004-AC**

#### **Requestor:**

The Honorable M. Brad Dixon

Jack County Attorney

100 Main Street, Suite 312

Jacksboro, Texas 76458

Re: Determination of an "excessive discount" under Alcoholic Beverage Code subsection 102.07(c) (RQ-0004-AC)

### **Briefs requested by August 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-202302731

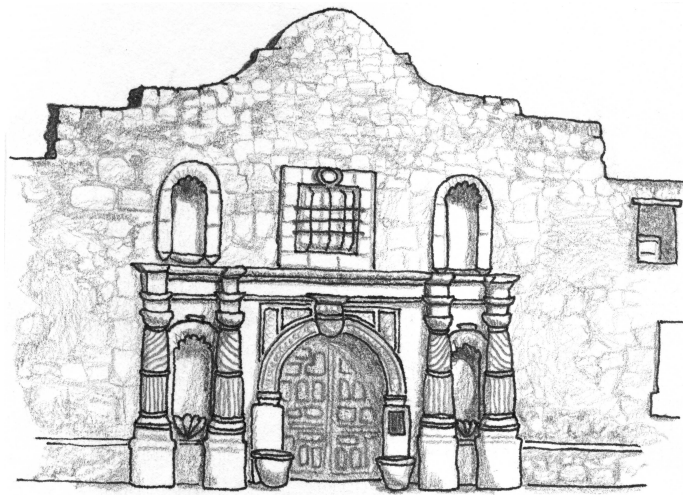
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: August 2, 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 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 65. WILDLIFE

Pursuant to Parks and Wildlife Code, §12.027, and Government Code, §2001.034, the executive director of the Texas Parks and Wildlife Department (the department) adopts, on an emergency basis, amendments to 31 TAC §65.95, concerning Movement of Breeder Deer and §65.611 (relating to Prohibited Acts), in response to the ongoing and most recent detections of chronic wasting disease (CWD) in additional deer breeding facilities.

The department's executive director has determined that the nature of CWD, its continued spread, and its detection in additional deer breeding facilities in Brooks, Frio and Zavala counties pose an immediate danger to white-tailed deer, which is a species authorized to be regulated by the department, and that the adoption of rules on an emergency basis with fewer than 30 days' notice is necessary to address this immediate danger.

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, 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.

The emergency rules will initially be in effect for 120 days, but may be extended for an additional 60 days. It is the intent of the department to proceed to the publication of proposed rules pursuant to the Administrative Procedure Act's notice and comment rulemaking process during the period of effectiveness of this emergency action.

CWD is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (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.

Although CWD remains under study, it is known to be invariably fatal to certain species of cervids, and is transmitted both directly (through animal-to-animal contact) and indirectly (through environmental contamination). To date there are no known cases where humans have been infected with CWD from consuming venison from infected deer. However, recent research suggests that CWD transmission from animals to humans through consumption of infected meat should not be ruled out. 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 potentially be significant.

The department has received recent confirmation of CWD in deer breeding facilities in Brooks, Frio, and Zavala counties. Current rules provide that when CWD is detected in a breeding facility or at a location where breeder deer have been released, the facility and any directly connected facilities are immediately prohibited from receiving or transferring deer and the department and Texas Animal Health Commission (TAHC) staff immediately begin epidemiological investigations to determine the extent and significance of possible disease transmission.

In the case of the Brooks County breeding facility, department records indicate that the facility has within the last five years transferred 1,057 deer to 51 deer breeding facilities, five Deer Management Permit (DMP) sites, and 77 release sites located in a total of 67 counties, as well as to three destinations in Mexico. In the case of the Frio County breeding facility, department records indicate that the facility has "certified herd" status under the TAHC herd certification program and within the last five years has transferred 627 deer to 46 deer breeding facilities, two nursing facilities, two DMP sites, and 29 release sites located in a total of 41 counties. In the case of the Zavala County breeding facility, department records indicate that within the last five years the facility has transferred 276 deer to three deer breeding facilities, one DMP facility, and 21 release sites located in a total of 14 counties. The breeding facilities, nursing facilities, DMP facilities, and release sites that have received deer from the positive facilities are directly connected to those facilities and are of epidemiological concern. These facilities are by current rule also prohibited from receiving or transferring deer unless and until epidemiological investigation determines that Movement Qualified (MQ) status can be restored. An additional 265 deer breeding facilities received deer from one or more of the directly connected breeding facilities, which means those facilities (referred to as "Tier 1" facilities) are indirectly connected to the positive facilities and are of epidemiological concern because they have received exposed deer that were in a trace-out breeding facility.

The recent detections of CWD in breeding facilities located in Brooks, Frio, and Zavala counties are part of an ongoing outbreak of CWD in deer breeding facilities. Since March 29, 2021, CWD has been detected in 14 counties. In 2023 alone, CWD has been detected in nine deer breeding facilities located in seven counties. Prior to 2021, CWD was detected in six deer breeding facilities located in four counties.

In response to the magnitude and the potential severity of this situation, the emergency rules require the ante-mortem testing of test eligible deer prior to transfer from a breeding facility to another breeding facility.

In addition, the rules will prohibit the removal of identification tags on breeder deer except as specifically authorized by statute. Parks and Wildlife Code, §43.3561 stipulates that not later than March 31 of the year following the year in which a breeder deer is born, the breeder deer must be identified by placing a tag in one ear. Section 43.3561 also requires deer breeders to immediately replace an identification tag that has been dislodged, damaged, or removed by means other than human agency and allows the removal of a tag only for the purpose of immediately replacing the tag with a tag that meets the requirements of Parks and Wildlife Code, §43.3561.

The department is authorized by Parks and Wildlife Code, §43.357 to make rules governing the possession of breeder deer held under Parks and Wildlife Code, Chapter 43, Subchapter L, and has determined that in order to expedite and facilitate epidemiological investigations, it is necessary to prohibit the removal of identification tags under any circumstance other than allowed by statute. The ability to quickly locate and test breeder deer transferred to a release facility is critical to determining the likelihood of disease transmission. The department and TAHC will continue to conduct epidemiological investigations and the department will undertake rulemaking through the normal administrative process.

The department will undertake to inform the public with respect to the emergency rules and permanent rules to follow.

The emergency action is necessary to protect the state's white-tailed deer populations, as well as associated industries.

## SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

### DIVISION 2. CHRONIC WASTING DISEASE - COMPREHENSIVE RULES

#### 31 TAC §65.95

The rules are adopted on an emergency basis under Parks and Wildlife Code, §12.027, which authorizes the department's executive director to adopt emergency rules if there is an immediate danger to a species authorized to be regulated by the department, Parks and Wildlife Code, Subchapter 43, Subchapter L, which authorizes the commission to make regulations governing the possession of breeder deer, reporting requirements, and procedures and requirements for the purchase, transfer, sale, or shipment of breeder deer; and under Government Code §2001.034, which authorizes a state agency to adopt such emergency rules without prior notice or hearing.

#### *§65.95. Movement of Breeder Deer:*

(a) General. Except as otherwise provided in this division, a breeding facility may transfer breeder deer under a transfer permit that has been activated and approved by the department to:

(1) another breeding facility as provided in subsection (b) of this section;

(2) an approved release site as provided in subsection (c) [(b)] of this section;

(3) - (4) (No change.)

(b) Transfer From Breeding Facility to Breeding Facility. A breeder deer may be transferred from one breeding facility to another breeding facility only if:

(1) an ante-mortem test on rectal or tonsil tissue collected from the deer within the eight months immediately preceding the transfer has been returned with test results of "not detected"; and

(2) the deer is at least six months of age at the time the test sample required by this subsection is collected.

(3) An ante-mortem test result of "not detected" submitted to satisfy the requirements of §65.92(d) of this title (relating to CWD Testing) may be utilized a second time to satisfy the requirements of this subsection, provided the test sample was collected as provided in paragraph (1) of this subsection.

(4) A facility from which deer are transferred in violation of this subsection is automatically NMQ and any further transfers are prohibited until the permittee and the owner of the destination facility have complied with the testing requirements of the department, based on an epidemiological assessment as specified in writing.

(c) [(b)] Release Sites; Release of Breeder Deer.

(1) - (6) (No change.)

(d) [(e)] Trace-out Release Site.

(1) - (3) (No change.)

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 24, 2023.

TRD-202302627

Todd S. George

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Texas Parks and Wildlife Department

Effective date: July 24, 2023

Expiration date: November 20, 2023

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



## SUBCHAPTER T. DEER BREEDER PERMITS

### 31 TAC §65.611

The rules are adopted on an emergency basis under Parks and Wildlife Code, §12.027, which authorizes the department's executive director to adopt emergency rules if there is an immediate danger to a species authorized to be regulated by the department, Parks and Wildlife Code, Subchapter 43, Subchapter L, which authorizes the commission to make regulations governing the possession of breeder deer, reporting requirements, and procedures and requirements for the purchase, transfer, sale, or shipment of breeder deer; and under Government Code §2001.034, which authorizes a state agency to adopt such emergency rules without prior notice or hearing.

*§65.611. Prohibited Acts.*

(a) - (l) (No change.)

(m) Except as provided by subsection (n) of this section, it is an offense for any person at any time for any reason to remove an identification tag prescribed by Parks and Wildlife Code, §43.3561, from a breeder deer except to immediately replace it with an identification tag meeting the requirements of Parks and Wildlife Code, §43.3561(c) or (h).

(n) A breeder deer that has been released is no longer a breeder deer; however, it is an offense for any person to remove the identification tag required by Parks and Wildlife Code, §43.3561, from such deer except as a consequence of reducing the deer to possession following lawful take under a hunting 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.

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Todd S. George

Assistant General Counsel

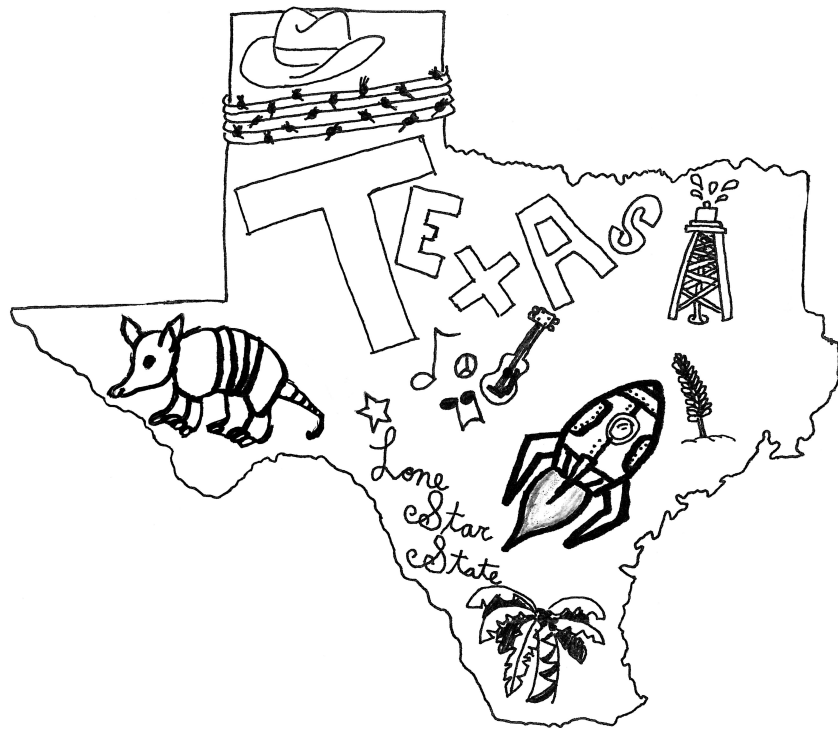
Texas Parks and Wildlife Department

Effective date: July 24, 2023

Expiration date: November 20, 2023

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





# 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 2. TEXAS ETHICS COMMISSION

#### CHAPTER 18. GENERAL RULES CONCERNING REPORTS

##### 1 TAC §18.31

The Texas Ethics Commission proposes amendments to Texas Ethics Commission rules in Chapter 18. Specifically, the Commission proposes amendments to §18.31, regarding Adjustments to Reporting Thresholds.

Section 571.064(b) of the Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The Commission first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2024, to apply to contributions and expenditures that occur on or after that date. The thresholds contained in the statutes listed in Figures 1 through 5 of 18.31 are also duplicated in numerous Commission rules, and therefore those rules must be similarly adjusted so they are consistent; amendments to these rules have been submitted concurrently with this proposal.

James Tinley, General Counsel, has determined that for the first five-year period the rule amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be consistency and clarity in the Commission's rules that set out reporting thresholds. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, they will:

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

The Commission invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto:public_comment@ethics.state.tx.us), or mailed or delivered to J.R. Johnson, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rule affects Title 15 of the Election Code.

##### *§18.31. Adjustments to Reporting Thresholds.*

(a) Pursuant to section 571.064 of the Government Code, the reporting thresholds are adjusted as follows:

Figure 1: 1 TAC §18.31(a)

~~[Figure 1: 1 TAC §18.31(a)]~~

Figure 2: 1 TAC §18.31(a)

~~[Figure 2: 1 TAC §18.31(a)]~~

Figure 3: 1 TAC §18.31(a)

~~[Figure 3: 1 TAC §18.31(a)]~~

Figure 4: 1 TAC §18.31(a)

~~[Figure 4: 1 TAC §18.31(a)]~~

Figure 5: 1 TAC §18.31(a)

(b) The changes made by this rule apply only to conduct occurring on or after the effective date of this rule.

(c) The effective date of this rule is January 1, 2024 ~~[2023]~~.

(d) In this section:

- (1) "CEC" means county executive committee;
- (2) "DCE" means direct campaign expenditure-only filer;
- (3) "GPAC" means general-purpose political committee;
- (4) "MPAC" means monthly-filing general-purpose political committee;

- (5) "PAC" means political committee;
  - (6) "PFS" means personal financial statement;
  - (7) "SPAC" means specific-purpose political committee;
- and
- (8) "TA" means treasurer appointment.

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 28, 2023.

TRD-202302679

James Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 463-5800



## CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission proposes amendments to Texas Ethics Commission rules in Chapter 20, Texas Administrative Code (TAC). Specifically, the Commission proposes amendments to §20.62, regarding Reporting Staff Reimbursement, and §20.65, regarding Reporting No Activity; §20.217, regarding Modified Reporting, §20.219, regarding Content of Candidate's Sworn Report of Contributions and Expenditures, §20.220, regarding Additional Disclosure for the Texas Comptroller of Public Accounts, and §20.221, regarding Special Pre-Election Report by Certain Candidates; §20.275, regarding Exception from Filing Requirement for Certain Local Officeholders, and §20.279, regarding Contents of Officeholder's Sworn Report of Contributions and Expenditures, §20.301, regarding Thresholds for Campaign Treasurer Appointment, §20.303, regarding Appointment of Campaign Treasurer, §20.313, regarding Converting to a General-Purpose Committee, §20.329, regarding Modified Reporting, §20.331, regarding Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures, and §20.333, regarding Special Pre-Election Report by Certain Specific-Purpose Committees; §20.401, regarding Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee, §20.405, regarding Campaign Treasurer Appointment for a General-Purpose Committee, §20.431 regarding Monthly Reporting, §20.433 regarding Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures, §20.434, regarding Alternate Reporting Requirements for General-Purpose Committees, and §20.435, regarding Special Pre-Election Reports by Certain General-Purpose Committees; §20.553, regarding County Executive Committee Accepting Contributions or Making Expenditures Under Certain Amount, and §20.555, regarding County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.

Section 571.064(b) of the Texas Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the

Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The Commission first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2024, to apply to contributions and expenditures that occur on or after that date. The thresholds contained in 1 TAC §18.31 are also duplicated in 27 different rules, some of which are referenced above; this includes changes to 117 different thresholds. Rather than amending 117 different thresholds annually, the Ethics Commission is proposing to strike the dollar amount in the 27 affected rules. Instead, the rule will simply reference the chart in Section 18.31. Replacing a dollar amount with a reference to the chart will allow the Commission to amend only the chart in future years, will increase clarity to the public and provide notice that each reporting threshold is subject to annual adjustment. Amendments to the affected rules are included with the amendments to Figures 1 through 5 of 1 TAC §18.31, which has been submitted concurrently with this proposal.

James Tinley, General Counsel, has determined that for the first five-year period the rule amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the Commission's rules that set out reporting thresholds. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they will: not create or eliminate a government program; not require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; create a new regulation; expand, limit, or repeal an existing regulation; not increase or decrease the number of individuals subject to the rules' applicability; or not positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto:public_comment@ethics.state.tx.us), or mailed or delivered to J.R. Johnson, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

### SUBCHAPTER B. GENERAL REPORTING RULES

#### 1 TAC §20.62, §20.65

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Title 15 of the Election Code.

*§20.62. Reporting Staff Reimbursement.*

(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed the amount specified by Figure 5 in 1 TAC §18.31, [\$6,910] during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:

(1) the amount of political expenditures that in the aggregate exceed the amount specified in Tex. Elec. Code §254.031(a)(3), as amended by Figure 1 in 1 TAC §18.31 [\$200] and that are made during the reporting period, the full names and addresses of the persons to whom the expenditures are made and the dates and purposes of the expenditures; and

(2) included with the total amount or a specific listing of the political expenditures of the amount specified in Tex. Elec. Code §254.031(a)(5), as amended by Figure 1 in 1 TAC §18.31 [\$200] or less made during the reporting period.

(b) Except as provided by subsection (a) of this section, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows:

(1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee;

(2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and

(3) the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee.

*§20.65. Reporting No Activity.*

(a) As a general rule, a candidate or officeholder must file a report required by Subchapter C of this chapter (relating to Reporting Requirements for a Candidate) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File), even if there has been no reportable activity during the period covered by the report.

(b) This general rule does not apply to:

(1) special pre-election reports;

(2) special session reports; or

(3) a local officeholder who does not have a campaign treasurer appointment on file and who does not accept more than the aggregate amount of political contributions or make more than the aggregate amount of political expenditures specified in Tex. Elec. Code §254.095, as amended by Figure 1 in 1 TAC §18.31 [\$1,010 in political contributions or make more than \$1,010 in political expenditures] during the reporting period.

(c) If a required report will disclose that there has been no reportable activity during the reporting period, the filer shall submit only

those pages of the report necessary to identify the filer and to swear to the lack of reportable activity.

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 28, 2023.

TRD-202302680

James Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 463-5800

◆ ◆ ◆  
SUBCHAPTER C. REPORTING REQUIREMENTS FOR A CANDIDATE

**1 TAC §§20.217, 20.219 - 20.221**

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute; and Texas Government Code §2155.003, which requires the Commission to adopt rules to implement that section.

The proposed amended rules affect Title 15 of the Election Code.

*§20.217. Modified Reporting.*

(a) An opposed candidate who does not intend to accept more than the aggregate amount of political contributions or make more than the aggregate amount of political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.181(a), as amended by Figure 1 in 1 TAC §18.31 [\$1,010 in political contributions or make more than \$1,010 in political expenditures (excluding filing fees)] in connection with any election in an election cycle may choose to file under the modified schedule.

(b) Under the modified schedule, an opposed candidate is not required to file pre-election reports or a runoff report.

(c) To select modified filing, a candidate must file a declaration of intent not to exceed [aecept] more than the amount of political contributions or political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.182(a), as amended by Figure 1 in 1 TAC §18.31 [\$1,010 in political contributions or make more than \$1,010 in political expenditures (excluding filing fees)] in connection with the election. The declaration must include a statement that the candidate understands that if either one of those limits is exceeded, the candidate will be required to file pre-election reports and, if necessary, a runoff report.

(d) A declaration under subsection (c) of this section is filed with the candidate's campaign treasurer appointment.

(e) To file under the modified schedule, a candidate must file the declaration required under subsection (c) of this section no later than the 30th day before the first election to which the declaration applies. A declaration filed under subsection (c) of this section is valid for one election cycle only.

(f) If an opposed candidate exceeds either of the [\$1,010] limits specified in Tex. Elec. Code §254.182(a), as amended by Figure 1 in 1 TAC §18.31, the candidate must file reports under §20.213 of this

title (relating to Pre-election Reports) and §20.215 of this title (relating to Runoff Report).

(g) If an opposed candidate exceeds either of the ~~[\$1,010]~~ limits specified in Tex. Elec. Code §254.182(a), as amended by Figure 1 in 1 TAC §18.31 after the 30th day before the election, the candidate must file a report not later than 48 hours after exceeding the limit. If this is the candidate's first report filed, the report covers a period that begins on the day the candidate's campaign treasurer appointment was filed. Otherwise, the period begins on the first day after the period covered by the last report required by this subchapter (other than a special pre-election report or a special session report) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File). The period covered by the report continues through the day the candidate exceeded one of the limits for modified reporting.

*§20.219. Content of Candidate's Sworn Report of Contributions and Expenditures.*

Semiannual reports, pre-election reports, and runoff reports must cover reportable activity during the reporting period and must include the following information:

- (1) the candidate's full name;
- (2) the candidate's address;
- (3) the office sought by the candidate, if known;
- (4) the identity and date of the election for which the report is filed, if known;
- (5) the campaign treasurer's name;
- (6) the campaign treasurer's telephone number;
- (7) the campaign treasurer's residence or business street address;
- (8) for each political committee from which the candidate received notice under §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of this title (relating to Notice to Candidate or Officeholder):
  - (A) the committee's full name;
  - (B) the committee's address;
  - (C) identification of the political committee as a general-purpose or a specific-purpose committee;
  - (D) the full name of the committee's campaign treasurer; and
  - (E) the address of the committee's campaign treasurer;
- (9) on a separate page, the following information for each expenditure from political contributions made to a business in which the candidate has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:
  - (A) the full name of the business to which the expenditure was made;
  - (B) the address of the person to whom the expenditure was made;
  - (C) the date of the expenditure;
  - (D) the purpose of the expenditure; and
  - (E) the amount of the expenditure;

(10) for each person from whom the candidate accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~ in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~ in value:

- (A) the full name of the person making the contribution;
- (B) the address of the person making the contribution;
- (C) the total amount of contributions;
- (D) the date each contribution was accepted; and
- (E) a description of any in-kind contribution;

(11) for each person from whom the candidate accepted a pledge or pledges to provide more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~ in money, or goods or services ~~[worth more than \$100]~~:

- (A) the full name of the person making the pledge;
- (B) the address of the person making the pledge;
- (C) the amount of each pledge;
- (D) the date each pledge was accepted;
- (E) a description of any goods or services pledged; and

(F) the total of all pledges accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~ and less from a person, except those reported under subparagraphs (A)-(E) of this paragraph;

(12) for each person making a loan or loans to the candidate for campaign purposes, if the total amount loaned by the person during the period is more than the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~:

- (A) the full name of the person or financial institution making the loan;
- (B) the address of the person or financial institution making the loan;
- (C) the amount of the loan;
- (D) the date of the loan;
- (E) the interest rate;
- (F) the maturity date;
- (G) the collateral for the loan, if any; and
- (H) if the loan has guarantors:
  - (i) the full name of each guarantor;
  - (ii) the address of each guarantor;
  - (iii) the principal occupation of each guarantor;
  - (iv) the name of the employer of each guarantor; and
  - (v) the amount guaranteed by each guarantor;

(13) the total amount of loans accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 ~~[\$100]~~ and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for a loan reported under paragraph (12) of this section;



(14) for political expenditures made during the reporting period that total more than the amount specified in Tex. Elec. Code §254.031(a)(3), as amended by Figure 1 in 1 TAC §18.31 [\$200] to a single payee, other than expenditures reported under paragraph (9) of this section:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(15) for each political expenditure of any amount made out of personal funds for which reimbursement from political contributions is intended:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure;
- (E) a declaration that the expenditure was made out of personal funds;
- (F) a declaration that reimbursement from political contributions is intended; and
- (G) the amount of the expenditure;

(16) for each non-political expenditure made from political contributions, other than expenditures reported under paragraph (9) of this section:

- (A) the date of each expenditure;
- (B) the full name of the person to whom the expenditure was made;
- (C) the address of the person to whom the expenditure was made;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(17) for each other candidate or officeholder who benefits from a direct campaign expenditure made by the candidate during the reporting period:

- (A) the name of the candidate or officeholder; and
- (B) the office sought or held by the candidate or officeholder;

(18) for each political contribution from an out-of-state political committee, the information required by §22.7 of this title (relating to Contribution from Out-of-State Committee);

(19) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(9), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(20) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(10), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(21) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(12), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(22) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(11), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(23) the full name and address of each person from whom an amount described by paragraph (19), (20), (21), or (22) of this section is received, the date the amount is received, and the purpose for which the amount is received;

(24) the following total amounts:

(A) the total principal amount of all outstanding loans as of the last day of the reporting period;

(B) the total amount or an itemized listing of political contributions (other than pledges, loans, or guarantees of loans) of the amount specified in Tex. Elec. Code §254.031(a)(1) and (1-a), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less;

(C) the total amount of all political contributions (other than pledges, loans, or guarantees of loans);

(D) the total amount or an itemized listing of the political expenditures of the amount specified in Tex. Elec. Code §254.031(a)(5), as amended by Figure 1 in 1 TAC §18.31 [\$200] and less; and

(E) the total amount of all political expenditures; and

(25) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

*§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.*

(a) For purposes of this section and §2155.003(e) of the Government Code, the term "vendor" means:

(1) a person, who during the comptroller's term of office, bids on or receives a contract under the comptroller's purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code; and

(2) an employee or agent of a person described by subsection (a)(1) of this section who communicates directly with the chief clerk, or an employee of the Texas Comptroller of Public Accounts who exercises discretion in connection with the vendor's bid or contract, about a bid or contract.

(b) Each report filed by the comptroller, or a specific-purpose committee created to support the comptroller, shall include:

(1) for each vendor whose aggregate campaign contributions equal or exceed the amount specified by Figure 5 in 1 TAC §18.31 [\$650] during the reporting period, a notation that:

(A) the contributor was a vendor during the reporting period or during the 12-month period preceding the last day covered by the report; and

(B) if the vendor is an individual, includes the name of the entity that employs or that is represented by the individual; and

(2) for each political committee directly established, administered, or controlled by a vendor whose aggregate campaign contributions equal or exceed the amount specified by Figure 5 in 1 TAC §18.31 [§650] during the reporting period, a notation that the contributor was a political committee directly established, administered, or controlled by a vendor during the reporting period or during the 12-month period preceding the last day covered by the report.

(c) The comptroller, or a specific-purpose committee created to support the comptroller, is considered to be in compliance with this section if:

(1) each written solicitation for a campaign contribution includes a request for the information required by subsection (b) of this section; and

(2) for each contribution that is accepted for which the information required by this section is not provided at least one oral or written request is made for the missing information. A request under this subsection:

(A) must be made not later than the 30th day after the date the contribution is received;

(B) must include a clear and conspicuous statement requesting the information required by subsection (b) of this section;

(C) if made orally, must be documented in writing; and

(D) may not be made in conjunction with a solicitation for an additional campaign contribution.

(d) The comptroller, or a specific-purpose committee created to support the comptroller, must report the information required by subsection (b) of this section that is not provided by the person making the political contribution and that is in the comptroller's or committee's records of political contributions or previous campaign finance reports required to be filed under Title 15 of the Election Code filed by the comptroller or committee.

(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which the contribution is reported the comptroller or committee must include the missing information on the next required campaign finance report.

(f) The disclosure required under subsection (b) of this section applies only to a contributor who was a vendor or a political committee directly established, administered, or controlled by a vendor on or after September 1, 2007.

*§20.221. Special Pre-Election Report by Certain Candidates.*

(a) As provided by subsection (b) of this section, certain candidates must file reports about certain contributions accepted during the period that begins on the ninth day before an election and ends at noon on the day before an election. Reports under this section are known as "special pre-election" reports.

(b) An opposed candidate for an office specified by §252.005(1), Election Code, who, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed the amount specified in Tex. Elec. Code §254.038(a)(1), as amended by Figure 1 in 1 TAC §18.31 [§2,020] must file special pre-election reports.

(c) Except as provided in subsection (e) of this section, a candidate must file a special pre-election report so that the report is received by the commission no later than the first business day after the

candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(d) If, during the reporting period for special pre-election contributions, a candidate receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during that period, the candidate must file an additional special pre-election report for each such contribution. Except as provided in subsection (e) of this section, each such special pre-election report must be filed so that it is received by the commission no later than the first business day after the candidate accepts the contribution.

(e) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the commission no later than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(f) A candidate must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceed the threshold for special pre-election reports.

(g) A candidate must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

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

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## SUBCHAPTER D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

### 1 TAC §20.275, §20.279

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rule affects Title 15 of the Election Code.

*§20.275. Exception from Filing Requirement for Certain Local Officeholders.*

An officeholder is not required to file a semiannual report of contributions and expenditures if the officeholder:

(1) is required to file with an authority other than the commission;

(2) does not have a campaign treasurer appointment on file; and

(3) does not accept more than the aggregate amount of political contributions or make more than the aggregate amount of political expenditures specified in Tex. Elec. Code §254.095, as amended by Figure 1 in 1 TAC §18.31 [~~\$1,010 in political contributions or make more than \$940 in political expenditures~~] during the reporting period.

§§20.279. *Contents of Officeholder's Sworn Report of Contributions and Expenditures.*

An officeholder's semiannual report of contributions and expenditures required by this subchapter must cover reportable activity during the reporting period and must include the following information:

- (1) the officeholder's full name;
- (2) the officeholder's address;
- (3) the office held by the officeholder;

(4) for each political committee from which the officeholder received notice under §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of this title (relating to Notice to Candidate or Officeholder):

- (A) the committee's full name;
- (B) the committee's address;
- (C) identification of the political committee as a general-purpose or a specific-purpose committee;
- (D) the full name of the committee's campaign treasurer; and
- (E) the address of the committee's campaign treasurer;

(5) on a separate page, the following information for each expenditure from political contributions made to a business in which the officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:

- (A) the full name of the business to which the expenditure was made;
- (B) the address of the business to which the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(6) for each person from whom the officeholder accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] in value:

- (A) the full name of the person making the contribution;
- (B) the address of the person making the contribution;
- (C) the total amount of contributions;
- (D) the date each contribution was accepted; and
- (E) a description of any in-kind contribution;

(7) for each person from whom the officeholder accepted a pledge or pledges to provide more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] in money or goods or services [~~worth more than \$100~~]:

- (A) the full name of the person making the pledge;
- (B) the address of the person making the pledge;
- (C) the amount of each pledge;
- (D) the date each pledge was accepted; and
- (E) a description of any goods or services pledged;

(8) the total of all pledges accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] and less from a person, except those reported under paragraph (7) of this section;

(9) for each person making a loan or loans to the officeholder for officeholder purposes, if the total amount loaned by the person during the period is more than the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~]:

- (A) the full name of the person or financial institution making the loan;
- (B) the address of the person or financial institution making the loan;
- (C) the amount of the loan;
- (D) the date of the loan;
- (E) the interest rate;
- (F) the maturity date;
- (G) the collateral for the loan, if any; and
- (H) if the loan has guarantors:
  - (i) the full name of each guarantor;
  - (ii) the address of each guarantor;
  - (iii) the principal occupation of each guarantor;
  - (iv) the name of the employer of each guarantor; and
  - (v) the amount guaranteed by each guarantor;

(10) the total amount of loans accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] and less from persons other than financial institutions engaged in the business of making loans for more than one year, except those reported under paragraph (9) of this section;

(11) for political expenditures made during the reporting period that total more than the amount specified in Tex. Elec. Code §254.031(a)(3), as amended by Figure 1 in 1 TAC §18.31 [~~\$200~~] to a single payee, other than expenditures reported under paragraph (5) of this section:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(12) for each political expenditure of any amount made out of personal funds for which reimbursement from political contributions is intended:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of each expenditure;
- (D) the purpose of the expenditure;
- (E) a declaration that the expenditure was made from personal funds;
- (F) a declaration that reimbursement from political contributions is intended; and
- (G) the amount of the expenditure;

(13) for each non-political expenditure made from political contributions, other than expenditures reported under paragraph (5) of this section:

- (A) the date of each expenditure;
- (B) the full name of the person to whom the expenditure was made;
- (C) the address of the person to whom the expenditure was made;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(14) for each candidate or other officeholder who benefits from a direct campaign expenditure made by the officeholder during the reporting period:

- (A) the name of the candidate or officeholder; and
- (B) the office sought or held by the candidate or officeholder;

(15) for each political contribution from an out-of-state political committee, the information required by §22.7 of this title (relating to Contribution from Out-of-State Committee);

(16) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(9), as amended by Figure 1 in 1 TAC §18.31 [§130];

(17) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(10), as amended by Figure 1 in 1 TAC §18.31 [§130];

(18) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(12), as amended by Figure 1 in 1 TAC §18.31 [§130];

(19) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(11), as amended by Figure 1 in 1 TAC §18.31 [§130];

(20) the full name and address of each person from whom an amount described by paragraph (16), (17), (18), or (19) of the section is received, the date the amount is received, and the purpose for which the amount is received;

(21) the following total amounts:

(A) the total principal amount of all outstanding loans as of the last day of the reporting period;

(B) the total amount or an itemized listing of political contributions (other than pledges, loans, or guarantees of loans) of the amount specified in Tex. Elec. Code §254.031(a)(1) and (1-a), as amended by Figure 1 in 1 TAC §18.31 [§100] and less;

(C) the total amount of all political contributions (other than pledges, loans, or guarantees of loans);

(D) the total amount or an itemized listing of the political expenditures of the amount specified in Tex. Elec. Code §254.031(a)(5), as amended by Figure 1 in 1 TAC §18.31 [§200] and less; and

(E) the total amount of all political expenditures; and

(22) an affidavit, executed by the officeholder, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

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

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## SUBCHAPTER E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

### 1 TAC §§20.301, 20.303, 20.313, 20.329, 20.331, 20.333

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Title 15 of the Election Code.

#### *§20.301. Thresholds for Campaign Treasurer Appointment.*

(a) A specific-purpose committee may not accept political contributions exceeding the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980] without filing a campaign treasurer appointment with the appropriate filing authority.

(b) A specific-purpose committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980] to support or oppose a candidate in a primary or general election for an office listed below unless the committee's campaign treasurer appointment as filed not later than the 30th day before the appropriate election day:

- (1) a statewide office;
- (2) a seat in the state legislature;

- (3) a seat on the State Board of Education;
- (4) a multi-county district office; or
- (5) a judicial district office filled by voters of only one county.

§20.303. *Appointment of Campaign Treasurer.*

(a) A specific-purpose committee may appoint a campaign treasurer at any time before exceeding the thresholds described in §20.301(a) of this title (relating to Thresholds for Campaign Treasurer Appointment).

(b) After a specific-purpose committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980] in political contributions or expenditures.

(c) With the exception of the campaign treasurer appointment, the individual named as a committee's campaign treasurer is legally responsible for filing all reports of the specific-purpose committee, including a report following the termination of his or her appointment as campaign treasurer.

§20.313. *Converting to a General-Purpose Committee.*

(a) A specific-purpose committee that changes its operation and becomes a general-purpose committee is subject to the requirements applicable to a general-purpose committee as of the date it files its campaign treasurer appointment as a general-purpose committee with the commission.

(b) The campaign treasurer of a specific-purpose committee that becomes a general-purpose committee must deliver written notice of its change in status to the authority with whom the committee was required to file as a specific-purpose committee.

(c) The notice required under subsection (b) of this section is due no later than the next deadline for filing a report under this subchapter that:

- (1) occurs after the committee's change in status; and
- (2) would be applicable to the political committee if it were still a specific-purpose committee.

(d) The notice must state that future reports will be filed with the commission.

(e) The notice required under subsection (b) of this section is in addition to the requirement that the new general-purpose committee file a campaign treasurer appointment with the commission before it exceeds the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980 in political expenditures or §980 in political contributions] as a general-purpose committee.

§20.329. *Modified Reporting.*

(a) A specific-purpose committee that would otherwise be required to file pre-election reports and a runoff report, if necessary, may choose to file under the modified schedule if the committee does not intend to accept more than the aggregate amount of political contributions or make more than the aggregate amount of political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.182(a), as amended by Figure 1 in 1 TAC §18.31 [§1,010 in political contributions or make more than §1,010 in political expenditures (excluding filing fees)] in connection with any election in an election cycle.

(b) Under the modified schedule, the campaign treasurer of a specific-purpose committee is not required to file pre-election reports or a runoff report.

(c) To select modified filing, a specific-purpose committee must file a declaration of the committee's intent not to accept more than the aggregate amount of political contributions or make more than the aggregate amount of political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.182(b), as amended by Figure 1 in 1 TAC §18.31 [§1,010 in political contributions or make more than §1,010 in political expenditures (excluding filing fees)] in connection with the election. The declaration must include a statement that the committee understands that if either one of those limits is exceeded, the committee's campaign treasurer will be required to file pre-election reports and, if necessary, a runoff report.

(d) A declaration under subsection (c) of this section is filed with the committee's campaign treasurer appointment.

(e) To file under the modified schedule, a specific-purpose committee must file the declaration required under subsection (c) of this section no later than the 30th day before the first election to which the declaration applies. A declaration filed under subsection (c) of this section is valid for one election cycle only.

(f) Except as provided by subsection (g) of this section, a specific-purpose committee's campaign treasurer must file pre-election reports and, if necessary, a runoff report under the schedule set out in §20.325 of this title (relating to Pre-election Reports) and §20.327 of this title (relating to Runoff Report) if the committee exceeds either of the aggregate limits in political contributions or political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.183(a), as amended by Figure 1 in 1 TAC §18.31 [§1,010] limits for modified reporting.

(g) If a specific-purpose committee exceeds either of the aggregate limits in political contributions or political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.183(b), as amended by Figure 1 in 1 TAC §18.31 [§1,010] limits for modified reporting after the 30th day before the election, the committee's campaign treasurer must file a report not later than 48 hours after exceeding the limit.

(1) The period covered by a 48-hour report shall begin either on the day the committee's campaign treasurer appointment was filed (if it is the committee's first report of contributions and expenditures) or on the first day after the period covered by the last report (other than a special pre-election report or special session report) filed under this subchapter, as applicable.

(2) The period covered by a 48-hour report shall continue through the day the committee exceeded one of the limits for modified reporting.

(h) A specific-purpose committee that exceeds either of the aggregate limits in political contributions or political expenditures (excluding filing fees) specified in Tex. Elec. Code §254.183(a), as amended by Figure 1 in 1 TAC §18.31 [§1,010 limits] for modified reporting after the 30th day before the election and on or before the 10th day before the election must file a report under §20.325(f) of this title, in addition to any required special pre-election reports.

§20.331. *Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures.*

Semiannual reports, pre-election reports, and runoff reports must cover reportable activity during the reporting period and must include the following information:

- (1) the full name of the specific-purpose committee;

- (2) the address of the specific-purpose committee;
- (3) the full name of the specific-purpose committee's campaign treasurer;
- (4) the residence or business street address of the specific-purpose committee's campaign treasurer;
- (5) the committee campaign treasurer's telephone number;
- (6) the identity and date of the election for which the report is filed, if applicable;
- (7) for each candidate supported or opposed by the specific-purpose committee:
  - (A) the full name of the candidate;
  - (B) the office sought by the candidate; and
  - (C) an indication of whether the committee supports or opposes the candidate;
- (8) for each officeholder assisted by the specific-purpose committee:
  - (A) the full name of the officeholder;
  - (B) the office held by the officeholder; and
  - (C) an indication of whether the committee supports or opposes the officeholder;
- (9) for each measure supported or opposed by the specific-purpose committee:
  - (A) a description of the measure; and
  - (B) an indication of whether the committee supports or opposes the measure;
- (10) for each political expenditure by the committee that was made as a political contribution to a candidate, officeholder, or another political committee and that was returned to the specific-purpose committee during the reporting period:
  - (A) the amount returned;
  - (B) the full name of the person to whom the expenditure was originally made;
  - (C) the address of the person to whom the expenditure was originally made; and
  - (D) the date the expenditure was returned to the specific-purpose committee;
- (11) on a separate page, the following information for each expenditure from political contributions made to a business in which the candidate has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:
  - (A) the full name of the business to which the expenditure was made;
  - (B) the address of the business to which the expenditure was made;
  - (C) the date of the expenditure;
  - (D) the purpose of the expenditure; and
  - (E) the amount of the expenditure;
- (12) if the specific-purpose committee supports or opposes measures exclusively, for each contribution accepted from a labor or-

ganization or corporation, as defined by §20.1 of this title (relating to Definitions):

- (A) the date each contribution was accepted;
  - (B) the full name of the corporation or labor organization making the contribution;
  - (C) the address of the corporation or labor organization making the contribution;
  - (D) the amount of the contribution; and
  - (E) a description of any in-kind contribution;
- (13) for each person from whom the specific-purpose committee accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in value:
- (A) the full name of the person;
  - (B) the address of the person;
  - (C) the total amount of contributions;
  - (D) the date each contribution was accepted; and
  - (E) a description of any in-kind contribution;
- (14) for each person from whom the specific-purpose committee accepted a pledge or pledges to provide more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in money or to provide goods or services [worth more than \$100]:
- (A) the full name of the person making a pledge;
  - (B) the address of the person making a pledge;
  - (C) the amount of the pledge;
  - (D) the date each pledge was accepted; and
  - (E) a description of any goods or services pledged;
- (15) the total of all pledges accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less from a person, except those reported under paragraph (14) of this section;
- (16) for each person making a loan or loans to the specific-purpose committee for campaign or officeholder purposes, if the total amount loaned by the person during the period is more than the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [\$100]:
- (A) the full name of the person or financial institution making the loan;
  - (B) the address of the person or financial institution making the loan;
  - (C) the amount of the loan;
  - (D) the date of the loan;
  - (E) the interest rate;
  - (F) the maturity date;
  - (G) the collateral for the loan, if any; and
  - (H) if the loan has guarantors:

- (i) the full name of each guarantor;
- (ii) the address of each guarantor;
- (iii) the principal occupation of each guarantor;
- (iv) the name of the employer of each guarantor; and
- (v) the amount guaranteed by each guarantor;

(17) the total amount of loans accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less from persons other than financial institutions engaged in the business of making loans for more than one year, except those reported under paragraph (16) of this section;

(18) for political expenditures made during the reporting period that total more than the amount specified in Tex. Elec. Code §254.031(a)(3), as amended by Figure 1 in 1 TAC §18.31 [\$200] to a single payee:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(19) for each direct campaign expenditure benefiting a candidate or officeholder, except for a direct campaign expenditure made by a committee supporting only one candidate or officeholder:

- (A) the name of the candidate or officeholder; and
- (B) the office sought or held by the candidate or officeholder;

(20) for each non-political expenditure made from political contributions, other than expenditures reported under paragraph (11) of this section:

- (A) the date of each expenditure;
- (B) the full name of the person to whom the expenditure was made;
- (C) the address of the person to whom the expenditure was made;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

(21) for each political contribution accepted from an out-of-state political committee, the information required by §22.7 of this title (relating to Contribution from Out-of-State Committee);

(22) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(9), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(23) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(10), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(24) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(12), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(25) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(11), as amended by Figure 1 in 1 TAC §18.31 [\$130];

(26) the full name and address of each person from whom an amount described by paragraph (22), (23), (24), or (25) of this section is received, the date the amount is received, and the purpose for which the amount is received;

(27) the following total amounts:

(A) the total principal amount of all outstanding loans as of the last day of the reporting period;

(B) the total amount or an itemized listing of political contributions (other than pledges, loans, or guarantees of loans) of the amount specified in Tex. Elec. Code §254.031(a)(1) and (1-a), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less;

(C) the total amount of all political contributions (other than pledges, loans, or guarantees of loans);

(D) the total amount or an itemized listing of the political expenditures of the amount specified in Tex. Elec. Code §254.031(a)(5), as amended by Figure 1 in 1 TAC §18.31 [\$200] and less; and

(E) the total amount of all political expenditures; and

(28) an affidavit, executed by the campaign treasurer, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

*§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.*

(a) As provided by subsection (b) of this section, certain specific-purpose committees must file reports about certain contributions accepted during the period that begins on the ninth day before an election and ends at noon on the day before an election. Reports under this section are known as "special pre-election" reports.

(b) A campaign treasurer for a specific-purpose committee for supporting or opposing a candidate for an office specified by §252.005(1), Election Code, that, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed the amount specified in Tex. Elec. Code §254.038(a)(2), as amended by Figure 1 in 1 TAC §18.31 [\$2,020] must file special pre-election reports.

(c) Except as provided in subsection (e) of this section, the campaign treasurer of a specific-purpose committee must file a report so that the report is received by the commission no later than the first business day after the committee accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(d) If, during the reporting period for special pre-election contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during the period, the campaign treasurer for the committee must file an additional special pre-election report for each such contribution. Except as provided in subsection (e) of this section, each such special pre-election report must be filed so that it is received by the commission no later than the first business day after the committee accepts the contribution.

(e) The campaign treasurer of a specific-purpose committee must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceed the threshold for special pre-election reports.

(f) A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

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

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## SUBCHAPTER F. REPORTING REQUIREMENT FOR A GENERAL PURPOSE COMMITTEE

### 1 TAC §§20.401, 20.405, 20.431, 20.433 - 20.435

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Title 15 of the Election Code.

*§20.401. Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee.*

(a) A general-purpose committee may not accept political contributions exceeding the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980 and may not make or authorize political expenditures exceeding §980] without filing a campaign treasurer appointment with the commission.

(b) Unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day, a general-purpose committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980] to support or oppose a candidate in a primary or general election for the following:

- (1) a statewide office;
- (2) a seat in the state legislature;
- (3) a seat on the State Board of Education;
- (4) a multi-county district office; or
- (5) a judicial district office filled by voters of only one county.

*§20.405. Campaign Treasurer Appointment for a General-Purpose Committee.*

(a) A general-purpose committee may appoint a campaign treasurer at any time before exceeding the thresholds described in §20.401(a) of this title (relating to Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee).

(b) After a general-purpose committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded the aggregate amount of political contributions or political expenditures specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [§980] in political contributions or expenditures.

(c) With the exception of the campaign treasurer appointment, the individual named as a committee's campaign treasurer is legally responsible for filing all reports of the general-purpose committee, including a report following the termination of his or her appointment as campaign treasurer.

*§20.431. Monthly Reporting.*

(a) A monthly report filed by a general-purpose committee shall include the information required by §20.433 of this title (relating to Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures), except that the threshold reporting amounts specified in Tex. Elec. Code §254.031(a)(1), (1-a), (2) and (5), as amended by Figure 1 in 1 TAC §18.31 [of \$100 set out in §20.433(1)-(16), and (20) of this title] does not apply to a general-purpose committee reporting monthly. For a general-purpose committee reporting monthly, the threshold reporting amount is the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31 [under §20.433(1)-(16) and (20) of this title is \$20], except as provided by §20.434 of this title (relating to Alternate Reporting Requirements for Certain General-Purpose Committees).

(b) A monthly report is due not later than the fifth day of the month following the end of the period covered by the report. A monthly report covering the month preceding an election in which the committee is involved must be received by the authority with whom the report is required to be filed no later than the fifth day of the month following the end of the period covered by the report.

(c) Except for the first monthly report filed, a monthly report covers a period that begins on the 26th day of one month and ends on the 25th day of the next month.

(d) The beginning day for the first monthly report filed by a general-purpose committee shall be as follows.

(1) For a general-purpose committee that has been filing on the regular schedule and chooses monthly filing between January 1 and January 15 of a particular year, the first report will cover a period that begins on January 1 of that year.

(2) For a general-purpose committee that elected to file monthly at the time it filed its campaign treasurer appointment, the period covered by the first monthly report depends on the day of the month that the campaign treasurer was appointed.

(A) If the general-purpose committee filed its campaign treasurer appointment before the 25th of the month, the first report will cover a period that begins on the day the appointment was filed and ends on the 25th day of the same month.

(B) If the general-purpose committee filed its campaign treasurer appointment on or after the 25th of the month, the first report will cover the period that begins on the day the appointment is filed and ends on the 25th day of the next month.

*§20.433. Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures.*



Semiannual reports, pre-election reports, and runoff reports must cover reportable activity during the reporting period and must include the following information:

- (1) the full name of the general-purpose committee;
- (2) the address of the general-purpose committee;
- (3) the full name of the general-purpose committee's campaign treasurer;
- (4) the residence or business street address of the general-purpose committee's campaign treasurer;
- (5) the committee campaign treasurer's telephone number;
- (6) the identity and date of the election for which the report is filed, if applicable;
- (7) the full name of each identified candidate or measure or classification by party of candidates supported or opposed by the general-purpose committee and an indication of whether the general-purpose committee supports or opposes each listed candidate, measure, or classification by party of candidates;
- (8) the full name of each identified officeholder or classification by party of officeholders assisted by the general-purpose committee;
- (9) if the general-purpose committee supports or opposes measures exclusively, for each contribution accepted from a corporation as defined by §20.1 of this title (relating to Definitions):
  - (A) the date each contribution was accepted;
  - (B) the full name of the corporation or labor organization making the contribution;
  - (C) the address of the corporation or labor organization making the contribution;
  - (D) the amount of the contribution; and
  - (E) a description of any in-kind contribution;
- (10) for each political expenditure by the general-purpose committee that was made as a political contribution to a candidate, officeholder, or another political committee and that was returned to the general-purpose committee during the reporting period:
  - (A) the amount returned;
  - (B) the full name of the person to whom the expenditure was originally made;
  - (C) the address of the person to whom the expenditure was originally made; and
  - (D) the date the expenditure was returned to the general-purpose committee;
- (11) for each person from whom the general-purpose committee accepted a political contribution other than a pledge or a loan of more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in value, or political contributions other than pledges or loans that total more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in value (~~or more than \$20~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31):
  - (A) the date each contribution was accepted;
  - (B) the full name of the person making the contribution;
  - (C) the address of the person making the contribution;

(D) the principal occupation of the person making the contribution;

(E) the amount of the contribution; and

(F) a description of any in-kind contribution;

(12) for each person from whom the general-purpose committee accepted a pledge or pledges to provide more than the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] in money or to provide goods or services [~~worth more than \$100~~] (~~[more than \$20]~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31:

(A) the full name of the person making the pledge;

(B) the address of the person making the pledge;

(C) the principal occupation of the person making the pledge;

(D) the amount of each pledge;

(E) the date each pledge was accepted; and

(F) a description of any goods or services pledged;

(13) the total of all pledges accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(1), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less from a person, except for those reported under paragraph (12) of this subsection;

(14) for each person making a loan or loans to the general-purpose committee for campaign purposes, if the total amount loaned by the person during the period is more than the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [\$100] (~~[more than \$20]~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31:

(A) the full name of the person or financial institution making the loan;

(B) the address of the person or financial institution making the loan;

(C) the amount of the loan;

(D) the date of the loan;

(E) the interest rate;

(F) the maturity date;

(G) the collateral for the loan, if any; and

(H) if the loan has guarantors:

(i) the full name of each guarantor;

(ii) the address of each guarantor;

(iii) the principal occupation of each guarantor;

(iv) the name of the employer of each guarantor; and

(v) the amount guaranteed by each guarantor;

(15) the total amount of loans accepted during the period for the amount specified in Tex. Elec. Code §254.031(a)(2), as amended by Figure 1 in 1 TAC §18.31 [\$100] and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for those reported under paragraph (14) of this section;

(16) for political expenditures made during the reporting period that total more than the amount specified in Tex. Elec. Code §254.031(a)(3), as amended by Figure 1 in 1 TAC §18.31 [~~\$200~~] (~~more than \$20~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31) to a single payee:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure;
- (E) the amount of the expenditure; and
- (F) indication for an expenditure paid in full or in part from corporations or labor organizations that it was paid from such sources.

(17) for each non-political expenditure made from political contributions:

- (A) the date of each expenditure;
- (B) the full name of the person to whom the expenditure was made;
- (C) the address of the person to whom the expenditure was made;
- (D) the purpose of the expenditure;
- (E) the amount of the expenditure; and
- (F) indication for an expenditure paid in full or in part from corporations or labor organizations that it was paid from such sources.

(18) for each candidate or officeholder who benefits from a direct campaign expenditure made by the committee:

- (A) the name of the candidate or officeholder; and
- (B) the office sought or held by the candidate or officeholder;

(19) for each political contribution from an out-of-state political committee, the information required by §22.7 of this title (relating to Contribution from Out-of-State Committee);

(20) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(9), as amended by Figure 1 in 1 TAC §18.31 [~~\$130~~];

(21) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(10), as amended by Figure 1 in 1 TAC §18.31 [~~\$130~~];

(22) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(12), as amended by Figure 1 in 1 TAC §18.31 [~~\$130~~];

(23) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds the amount specified in Tex. Elec. Code §254.031(a)(11), as amended by Figure 1 in 1 TAC §18.31 [~~\$130~~];

(24) the full name and address of each person from whom an amount described by paragraph (20), (21), (22), or (23) of this section is received, the date the amount is received, and the purpose for which the amount is received;

(25) the following total amounts:

(A) the total principal amount of all outstanding loans as of the last day of the reporting period;

(B) the total amount or an itemized listing of political contributions (other than pledges, loans, or guarantees of loans) of the amount specified in Tex. Elec. Code §254.031(a)(1) and (1-a), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] and less (~~[\$20 and less]~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31);

(C) the total amount of all political contributions (other than pledges, loans, or guarantees of loans);

(D) the total amount or an itemized listing of the political expenditures of the amount specified in Tex. Elec. Code §254.031(a)(5), as amended by Figure 1 in 1 TAC §18.31 [~~\$200~~] and less (~~[\$20 and less]~~) for a general-purpose committee reporting monthly, use the amount specified in Tex. Elec. Code §254.156, as amended by Figure 1 in 1 TAC §18.31); and

(E) the total amount of all political expenditures; and

(26) an affidavit, executed by the campaign treasurer, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

#### §20.434. *Alternate Reporting Requirements for General-Purpose Committees.*

(a) This section and Election Code §254.1541 apply only to a general-purpose committee with less than the amount specified in Tex. Elec. Code §254.1541(a), as amended by Figure 1 in 1 TAC §18.31 [~~\$29,300~~] in one or more accounts maintained by the committee in which political contributions are deposited, as of the last day of the preceding reporting period for which the committee was required to file a report.

(b) The alternative reporting requirement in Election Code §254.1541 applies only to contributions.

(c) A report by a campaign treasurer of a general-purpose committee to which this section and Election Code §254.1541 apply shall include the information required by §20.433 of this title (relating to Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures), except that the campaign treasurer may choose a threshold reporting amount for political contributions [~~of~~] specified in Tex. Elec. Code §254.1541(b)(1), as amended by Figure 1 in 1 TAC §18.31 [~~\$200~~] instead of the threshold reporting amount [~~of~~] specified in Tex. Elec. Code §254.031(a)(1) and (1-a), as amended by Figure 1 in 1 TAC §18.31 [~~\$100~~] set out in §20.433(11) and (25)(B) of this title.

(d) A monthly report by a campaign treasurer of a general-purpose committee to which this section and Election Code §254.1541 apply shall include the information required by §20.433 of this title, except that the campaign treasurer may choose a threshold reporting amount for political contributions of the amount specified in Tex. Elec. Code §254.156(2), as amended by Figure 1 in 1 TAC §18.31, [~~\$40~~] instead of the threshold reporting amount [~~of \$20~~] set out in §20.433(11) and (25)(B) of this title.

#### §20.435. *Special Pre-Election Reports by Certain General-Purpose Committees.*

(a) In addition to other reports required by this chapter, a general-purpose committee must file a special pre-election report if the committee is involved in an election and if it:

(1) makes direct campaign expenditures supporting or opposing a single candidate or a group of candidates that in the aggregate exceed the amounts specified in Tex. Elec. Code §254.039(a)(2), as amended by Figure 1 in 1 TAC §18.31 [§2,020 or a group of candidates that in the aggregate exceed \$30,330] during the reporting period for special pre-election reports; or

(2) accepts political contributions from a person that in the aggregate exceed the amount specified in Tex. Elec. Code §254.039(a)(1), as amended by Figure 1 in 1 TAC §18.31 [§6,940] during the reporting period for special pre-election reports.

(b) The period for special pre-election reports begins on the ninth day before election day and ends at noon on the day before election day.

(c) Except as provided by subsection (d) of this section, a report under this section must be received by the commission no later than the first business day after the contribution is accepted or the expenditure is made.

(d) A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, must be received by the commission no later than 5 p.m. of the first business day after the contribution is accepted or the expenditure is made.

(e) Expenditures and contributions reported under this section must be reported again in the next applicable sworn report of contributions and expenditures.

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

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General Counsel

Texas Ethics Commission

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For further information, please call: (512) 463-5800



## SUBCHAPTER I. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

### 1 TAC §20.553, §20.555

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Title 15 of the Election Code.

*§20.553. Campaign Treasurer Appointment Not Required for County Executive Committee Accepting Contributions or Making Expenditures under Certain Amount.*

(a) A county executive committee accepting political contributions or making political expenditures totaling the amount specified

in Tex. Elec. Code §253.031(d), as amended by Figure 1 in 1 TAC §18.31 [§36,630] or less in a calendar year is not required to:

(1) appoint a campaign treasurer before accepting political contributions or making political expenditures; or

(2) file the reports required by Subchapter F of this chapter (relating to Reporting Requirements for a General-Purpose Committee).

(b) A county executive committee described in subsection (a) of this section is required to comply with §20.551 of this title (relating to Obligation To Maintain Records).

*§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.*

(a) A county executive committee described by subsection (b) of this section is subject to the requirements of Subchapter F of this chapter (relating to Reporting Requirements for a General-Purpose Committee), except where those rules conflict with this subchapter. In the case of conflict, this subchapter prevails over Subchapter F of this chapter.

(b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceed the amount specified in Tex. Elec. Code §253.031(d)(1), as amended by Figure 1 in 1 TAC §18.31 [§36,630] in a calendar year shall file:

(1) a campaign treasurer appointment with the commission no later than the 15th day after the date that amount is exceeded; and

(2) the reports required by Subchapter F of this chapter [(relating to Reporting Requirements for a General-Purpose Committee)]. The first report filed must include all political contributions accepted and all political expenditures made before the county executive committee filed its campaign treasurer appointment.

(c) Contributions accepted from corporations and labor organizations under section 253.104 of the Election Code and reported under Subchapter H of this chapter (relating to Accepting and Reporting Contributions from Corporations and Labor Organizations) do not count against the amount specified in Tex. Elec. Code §253.031(d)(1), as amended by Figure 1 in 1 TAC §18.31 [§36,630] thresholds described in subsection (b) of this section.

(d) A county executive committee that filed a campaign treasurer appointment may file a final report, which will notify the commission that the county executive committee does not intend to file future reports unless it exceeds one of the amount specified in Tex. Elec. Code §253.031(d)(1), as amended by Figure 1 in 1 TAC §18.31 [§36,630] thresholds. The final report may be filed:

(1) beginning on January 1 and by the January 15 filing deadline if the committee has exceeded one of the amount specified in Tex. Elec. Code §253.031(d)(1), as amended by Figure 1 in 1 TAC §18.31 [§36,630] thresholds in the previous calendar year; or

(2) at any time if the committee has not exceeded one of the amount specified in Tex. Elec. Code §253.031(d)(1), as amended by Figure 1 in 1 TAC §18.31 [§36,630] thresholds in the calendar year.

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

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## CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

### 1 TAC §§22.1, 22.6, 22.7

The Texas Ethics Commission proposes an amendment to Texas Ethics Commission rules in Chapter 22. Specifically, the Commission proposes amendments to §22.1, regarding Certain Campaign Treasurer Appointments Required before Political Activity Begins, §22.6, regarding Reporting Direct Campaign Expenditures, and §22.7, regarding Contribution from Out-of-State Committee.

Section 571.064(b) of the Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The Commission first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2024, to apply to contributions and expenditures that occur on or after that date. The thresholds contained in 1 TAC §18.31 are also duplicated in 27 different rules, some of which are referenced above; this includes changes to 117 different thresholds. Rather than amending 117 different thresholds annually, the Ethics Commission is proposing to strike the dollar amount in the 27 affected rules. Instead, the rule will simply reference the chart in §18.31. Replacing a dollar amount with a reference to the chart will allow the Commission to amend only the chart in future years, will increase clarity to the public and provide notice that each reporting threshold is subject to annual adjustment. Amendments to the affected rules are included with the amendments to Figures 1 through 5 of 1 TAC §18.31, which has been submitted concurrently with this proposal.

James Tinley, General Counsel, has determined that for the first five-year period the rule amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the Commission's rules that set out reporting thresholds. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they will: not create or eliminate a government program; not require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; not increase or decrease the number of individuals subject to the rules' applicability; or not positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto:public_comment@ethics.state.tx.us), or mailed or delivered to J.R. Johnson, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Title 15 of the Election Code.

#### *§22.1. Certain Campaign Treasurer Appointments Required before Political Activity Begins.*

(a) An individual must file a campaign treasurer appointment with the proper authority before accepting a campaign contribution or making or authorizing a campaign expenditure.

(1) An officeholder may accept an officeholder contribution and make or authorize an officeholder expenditure without a campaign treasurer appointment on file.

(2) An officeholder who does not have a campaign treasurer appointment on file may not accept a campaign contribution or make or authorize a campaign expenditure.

(b) A political committee may not accept political contributions exceeding the amount specified for making political contributions or making or authorizing political expenditures in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [~~\$980 and may not make or authorize political expenditures exceeding \$980~~] without filing a campaign treasurer appointment with the appropriate filing authority.

(c) Unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day, a political committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding the amount specified in Tex. Elec. Code §253.031(b), as amended by Figure 1 in 1 TAC §18.31 [~~\$980~~] to support or oppose a candidate in a primary or general election for the following:

- (1) a statewide office;
- (2) a seat in the state legislature;
- (3) a seat on the State Board of Education;
- (4) a multi-county district office; or
- (5) a judicial district office filled by voters of only one

county.

(d) This section does not apply to the county executive committee of a political party except as provided in Chapter 20, Subchapter I of this title (relating to Rules Applicable to a Political Party's County Executive Committee).

§22.6. *Reporting Direct Campaign Expenditures.*

Section 254.261 of the Election Code applies to a person who, not acting in concert with another person, makes one or more direct campaign expenditures that exceed the amount specified in Tex. Elec. Code §254.261(a), as amended by Figure 1 in 1 TAC §18.31 [§150] in an election from the person's own property.

§22.7. *Contribution from Out-of-State Committee.*

(a) For each reporting period during which a candidate, officeholder, or political committee accepts a contribution or contributions from an out-of-state political committee totaling more than the amount specified in Tex. Elec. Code §253.032(a), as amended by Figure 1 in 1 TAC §18.31 [§1,010], the candidate, officeholder, or political committee must comply with subsections (b) and (c) of this section.

(b) The candidate, officeholder, or political committee covered by subsection (a) of this section must first obtain from the out-of-state committee one of the following documents before accepting the contribution that causes the total received from the out-of-state committee to exceed the amount specified in Tex. Elec. Code §253.032(a), as amended by Figure 1 in 1 TAC §18.31 [§1,010] during the reporting period:

(1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than the amount specified in Tex. Elec. Code §253.032(a)(1), as amended by Figure 1 in 1 TAC §18.31 [§1,010] to the out-of-state political committee during the 12 months immediately preceding the date of the contribution; or

(2) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee.

(c) The document obtained pursuant to subsection (b) of this section shall be included as part of the report that covers the reporting period in which the candidate, officeholder, or political committee accepted the contribution that caused the total accepted from the out-of-state committee to exceed the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC §18.31 [§1,010].

(d) A candidate, officeholder, or political committee that:

(1) receives contributions covered by subsection (a) of this section from the same out-of-state committee in successive reporting periods; and

(2) complies with subsection (b)(2) of this section before accepting the first contribution triggering subsection (a) of this section, may comply with subsection (c) of this section in successive reporting periods by submitting a copy of the certified document obtained before accepting the first contribution triggering subsection (a) of this section, rather than by obtaining and submitting an original certified document for each reporting period, provided the document has not been amended since the last submission.

(e) A candidate, officeholder, or political committee that accepts a contribution or contributions totaling the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC §18.31 [§1,010] or less from an out-of-state political committee shall include as part of the report covering the reporting period in which the contribution or contributions are accepted either:

(1) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee; or

(2) the following information:

(A) the full name of the committee, and, if the name is an acronym, the words the acronym represents;

(B) the address of the committee;

(C) the telephone number of the committee;

(D) the name of the person appointing the campaign treasurer; and

(E) the following information for the individual appointed campaign treasurer and assistant campaign treasurer:

(i) the individual's full name;

(ii) the individual's residence or business street address; and

(iii) the individual's telephone number.

(f) This section does not apply to a contribution from an out-of-state political committee if the committee filed a campaign treasurer appointment with the commission before making the contribution.

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

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Texas Ethics Commission

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For further information, please call: (512) 463-5800



## CHAPTER 34. REGULATION OF LOBBYISTS SUBCHAPTER B. REGISTRATION REQUIRED

### 1 TAC §34.41, §34.43

The Texas Ethics Commission proposes an amendment to Texas Ethics Commission rules in Chapter 34. Specifically, the Commission proposes amendments to §34.41, regarding Expenditure Threshold, and §34.43, regarding Compensation and Reimbursement Threshold.

Section 571.064(b) of the Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The Commission first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2024, to apply to contributions and expenditures that occur on or after that date. The thresholds contained in 1 TAC §18.31 are also duplicated in 27 different rules, some of which are referenced above; this includes changes to 117 different thresholds. Rather than amending 117 different thresholds annually, the Ethics Commission is proposing to strike the dollar amount in the 27 affected rules. Instead, the rule will simply reference the chart in Section 18.31. Replacing a dollar amount with a reference to the chart will allow the Commission to amend only the chart in future years, will increase clarity to the public and provide notice that each reporting threshold is subject to annual adjustment. Amendments to the affected rules are included with the amendments to Figures 1 through 5 of 1 TAC §18.31, which has been submitted concurrently with this proposal.

James Tinley, General Counsel, has determined that for the first five-year period the rule amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rules.

The General Counsel has also determined that for each year of the first five years the proposed amended rules are in effect, the public benefit will be consistency and clarity in the Commission's rules that set out reporting thresholds. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rules.

The General Counsel has determined that during the first five years that the proposed amended rules are in effect, they will: not create or eliminate a government program; not require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; not increase or decrease the number of individuals subject to the rules' applicability; or not positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rules from any member of the public. A written statement should be emailed to [public\\_comment@ethics.state.tx.us](mailto:public_comment@ethics.state.tx.us), or mailed or delivered to J.R. Johnson, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rules may do so at any Commission meeting during the agenda item relating to the proposed amended rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

The amendments are proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules to administer Chapter 305 of the Election Code; Texas Government Code §305.003, which authorizes the Commission to determine by rule the amount of expenditures made or compensation received over which a person is required to register as a lobbyist; and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The proposed amended rules affect Chapter 305 of the Government Code.

§34.41. *Expenditure Threshold.*

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code [under Government Code, §305.003(a)(1),] if the person makes total expenditures of more than the amount specified in Tex. Gov't Code §305.003(a)(1), as amended by Figure 2 in 1 TAC §18.31 [§880] in a calendar quarter, not including expenditures for the person's own travel, food, lodging, or membership dues, on activities described in Government Code §305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action.

(b) An expenditure made by a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state acting in his or her official capacity is not included for purposes of determining whether a person is required to register under Government Code, §305.003(a)(1).

(c) An expenditure made in connection with an event to promote the interests of a designated geographic area or political subdivision is not included for purposes of determining whether a person has crossed the registration threshold in Government Code, §305.003(a)(1), if the expenditure is made by a group that exists for the limited purpose of sponsoring the event or by a person acting on behalf of such a group.

§34.43. *Compensation and Reimbursement Threshold.*

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code [under Government Code, §305.003(a)(2),] if the person receives, or is entitled to receive under an agreement under which the person is retained or employed, more than the amount specified in Tex. Gov't Code §305.003(a)(2), as amended by Figure 2 in 1 TAC §18.31 [§1,760] in a calendar quarter in compensation and reimbursement, not including reimbursement for the person's own travel, food, lodging, or membership dues, from one or more other persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) For purposes of Government Code, §305.003(a)(2), and this chapter, a person is not required to register if the person spends not more than 40 hours for which the person is compensated or reimbursed during a calendar quarter engaging in lobby activity, including preparatory activity as described by §34.3 of this title (relating to Compensation for Preparation Time).

(c) For purposes of Government Code, §305.003(a)(2), and this chapter, a person shall make a reasonable allocation of compensation between compensation for lobby activity and compensation for other activities.

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 28, 2023.

TRD-202302687

James Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 463-5800



## PART 12. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

## CHAPTER 254. REGIONAL POISON CONTROL CENTERS

### 1 TAC §254.2

The Commission on State Emergency Communications (CSEC) proposes amendments to §254.2, concerning CSEC's Poison Control Coordinating Committee.

#### BACKGROUND AND PURPOSE

CSEC proposes amendments to rule §254.2 (Title 1, Part 12, Chapter 254 of the Texas Administrative Code) relating to its Poison Control Coordinating Committee (PCCC). Health and Safety Code §777.008(a) directs CSEC to establish the PCCC to "coordinate the activities of the regional poison control centers designated under Section 777.001(a) and advise CSEC." Section 254.2 establishes and governs the PCCC in accordance with Government Code Chapter 2110, *State Agency Advisory Committees*. The PCCC is abolished by §254.2 on September 1, 2023, if that date is not revised. The primary purpose of amending §254.2 is to extend the duration of the PCCC.

As required by the rule and statute, CSEC has completed its review of the PCCC's work, usefulness, and costs and determined that it is in CSEC's best interests to continue the PCCC.

#### SECTION-BY-SECTION EXPLANATION

Section 254.2(o) is amended to extend the duration of the PCC by replacing the current year the PCCC is abolished (2023) with a new abolishment year (2029); and to replace the reference text "that date" with calendar text "September 1, 2029."

#### FISCAL NOTE

Kelli Merriweather, CSEC's executive director, has determined that for each year of the first five fiscal years (FY) that amended §254.2 is in effect there will be no cost implications to the state or local governments as a result of enforcing or administering the amended sections.

#### PUBLIC BENEFITS AND COSTS

Ms. Merriweather has determined that for each year of the first five years the amended section is in effect, the public benefits anticipated as a result of the proposed revision will be to continue, in an official capacity, the advisory and coordinating functions of the PCCC for an additional six years; and further integrate the PCCC's activities into CSEC's statewide Poison Control Program consistent with the CSEC-approved PCCC bylaws. Costs of complying with the rule are borne by CSEC directly through staff time spent supporting the PCCC's activities and indirectly through grants to each Regional Poison Control Center comprising the PCCC; and by PCCC members volunteering their time.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

CSEC has determined that this proposal does not directly affect a local economy and therefore has not drafted a local employment impact statement as would otherwise be required under Government Code §2001.022.

#### RULE INCREASING COSTS TO REGULATED PERSONS

Government Code §2001.0045 precludes a state agency from adopting a proposed rule if the fiscal note imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless on or before the effective date the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost im-

posed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions for certain types of rules under §2001.0045(c).

Section §2001.0045(b) applies to the proposed amended rule and no exceptions are applicable. The proposed amended rule does not include a fiscal note imposing or increasing costs on regulated persons, including another state agency, a special district, or a local government. Accordingly, no repeal or amendment of another rule to offset costs is required.

#### GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, CSEC has determined that during the first five years that the rule will be in effect it would: 1. neither create nor eliminate a government program; 2. not result in an increase or decrease in the number of full-time equivalent employee needs; 3. not result in an increase or decrease in future legislative appropriations to the agency; 4. not increase or decrease any fees paid to the agency; 5. not create a new regulation; 6. not expand, limit, or repeal an existing regulation; 7. neither increase or decrease the number of individuals subject to regulation; and 8. not positively or adversely affect Texas' economy.

#### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

CSEC has determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225.

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

In accordance with Government Code §2006.002(c), CSEC has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as the rule being proposed affects only the relationship between CSEC and the Regional Poison Control Centers vis-à-vis CSEC's PCCC. Accordingly, CSEC has not prepared an economic impact statement or regulatory flexibility analysis, nor has it contacted legislators in any rural communities regarding this proposal.

#### TAKINGS IMPACT ASSESSMENT

CSEC 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 Government Code §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted in writing to Patrick Tyler, Commission on State Emergency Communications, 1801 Congress Avenue, Suite 11.100, Austin, Texas 78701, by facsimile to (512) 305-6937, or by email to [patrick.tyler@csec.texas.gov](mailto:patrick.tyler@csec.texas.gov). Please include "254.2 Rulemaking Comments" in the subject line of your letter, fax, or email. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### STATEMENT OF AUTHORITY

The amended section is authorized under Health and Safety Code §777.008 and Government Code Chapter 2110. The former establishes the PCCC and the latter requires state agencies to describe by rule an advisory committee's purpose and tasks,

the manner in which the PCCC reports to CSEC, and the duration of the PCCC.

No other statutes, articles or codes are affected by the proposed amendment.

§254.2. *Poison Control Coordinating Committee.*

(a) Purpose. Establish the Poison Control Coordinating Committee (Committee) created by Health and Safety Code §777.008. The Committee shall coordinate the activities of the regional poison control centers (RPCCs) and advise the Commission on State Emergency Communications (Commission) on:

(1) promoting public safety and injury prevention through well-coordinated poison control activities within the state of Texas;

(2) providing information and educational programs for communities and health care professionals;

(3) providing poison prevention education to the public, and informing and educating health professionals on the management of poison and overdose victims;

(4) providing technical assistance to state agencies requesting toxicology assistance; and

(5) providing consultation services concerning medical toxicology.

(b) Tasks. The Committee is tasked with:

(1) advising the Commission on rules relating to the poison control program;

(2) advising the Commission regarding the requirements of Health and Safety Code, Chapter 777, Regional Poison Control Centers;

(3) advising the Commission on the guidelines for an RPCC to achieve and maintain accreditation through the American Association of Poison Control Centers (AAPCC);

(4) coordinating with Commission staff the poison control program's input into the Commission's Strategic Plan and Legislative Appropriations Request; and

(5) coordinating, partnering, and evaluating in accordance with the Commission's adopted Committee bylaws.

(c) Composition. The Committee is composed of:

(1) one public member appointed by the Commission;

(2) six members who represent the six RPCCs, one member each appointed by the chief executive officer of each RPCC or the functional equivalent;

(3) one member appointed by the commissioner of the Department of State Health Services (DSHS); and

(4) one member who is a health care professional designated as the poison control program coordinator appointed by the Commission.

(d) Bylaws. The Committee shall draft bylaws for approval by the Commission.

(e) Terms of Office. Each member shall be appointed for a term of six years.

(1) Member terms begin on September 1 of the year of appointment.

(2) Members shall continue to serve after the expiration of their term until a replacement member is appointed.

(3) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that member's term.

(4) Members serve staggered terms, with the terms of one-third of the members expiring August 31 of each odd-numbered year. To implement staggered terms, the initial terms of each member were [are] as follows:

(A) public member and two RPCC members--2011;

(B) DSHS member and two RPCC members--2013;

and

(C) Commission member and two RPCC members--2015.

(f) Committee Meeting Attendance. Members shall attend scheduled Committee meetings.

(1) A member shall notify the presiding officer or Commission staff if the member is unable to attend a scheduled meeting.

(2) It is grounds for removal, including by the Commission, if a member cannot discharge the member's duties for a substantial part of the member's appointed term because of illness or disability, is absent from more than half of the Committee meetings during a fiscal year, or is absent from at least three consecutive Committee meetings. The validity of an action of the Committee is not affected by the fact that it is taken when a ground for removal of a member exists.

(g) Statement by Members.

(1) The Commission and the Committee shall not be bound in any way by any statement or action on the part of any Committee member except when a statement or action is in pursuit of specific instructions from the Commission or Committee.

(2) The Committee and its members may not participate in legislative activity in the name of the Commission or the Committee except with approval through the Commission's legislative process. Committee members are not prohibited from representing themselves, their RPCC, or other entities in the legislative process.

(h) Reimbursement for Expenses. In accordance with the requirements set forth in Government Code, Chapter 2110, a Committee member may only receive reimbursement for the member's expenses, including travel expenses, incurred for each day the member engages in official Committee business from appropriated funds if authorized by the General Appropriations Act or budget execution process.

(1) No compensatory per diem shall be paid to Committee members unless required by law.

(2) A Committee member who is an employee of a state agency, other than the Commission or DSHS, may not receive reimbursement for expenses from the Commission.

(3) A nonmember of the Committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from appropriated funds unless authorized in accordance with subsection (h) of this section and approved by the Commission's Executive Director.

(4) Each member who is to be reimbursed for expenses shall submit to Commission staff the member's receipts for expenses and any required official forms no later than 14 days after each Committee meeting.

(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by Commission staff.



(i) Reporting to the Commission. The Committee shall submit written reports to the Commission in accordance with Committee bylaws; and additionally as follows:

(1) by September 1 of each year submit an annual report to the Commission that includes, but is not limited to, the following:

(A) an update on the Committee's work, including:

- (i) Committee meeting dates;
- (ii) member attendance records;
- (iii) description of actions taken by the Committee;
- (iv) description of how the Committee has accomplished or addressed the tasks and issues assigned to the Committee by the Commission;

(v) information on available grants and any grant funding received by the RPCCs; and

(vi) anticipated future activities of the Committee;

(B) description of the usefulness of the Committee's work; and

(C) statement of costs related to the Committee, including the cost of Commission staff time spent in support of the Committee;

(2) by June 1 in even-numbered years, a report advising and making recommendations regarding development of the Commission's biennial Strategic Plan and Legislative Appropriations Request; and

(3) by June 1 in odd-numbered years, a report on the distribution of appropriated funding, the implementation of legislative requirements, and other information as may be determined by the Commission.

(j) Commission Staff. Support for the Committee shall be provided by Commission staff.

(k) Advisory Committee. The Committee is an advisory committee in that it does not supervise or control public business or policy. As an advisory committee, the Committee is not subject to the Open Meetings Act (Texas Government Code, Chapter 551).

(l) Applicable law. The Committee is subject to Government Code, Chapter 2110, concerning state agency advisory committees.

(m) Commission Evaluation. The Commission shall annually evaluate the Committee's work, usefulness, and the costs related to the Committee, including the cost of Commission staff time spent supporting the Committee's activities.

(n) Report to the Legislative Budget Board. The Commission shall report to the Legislative Budget Board the information developed in subsection (m) of this section on a biennial basis as part of the Commission's Legislative Appropriations Request.

(o) Review and Duration. Before September 1, 2029 [2023], the Commission will initiate and complete a review of the Committee to determine whether the Committee should be continued or abolished. If the Committee is not continued, it shall be automatically abolished on September 1, 2029 [that date].

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 27, 2023.

TRD-202302672

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 305-6915



## TITLE 10. COMMUNITY DEVELOPMENT

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

#### CHAPTER 10. UNIFORM MULTIFAMILY RULES

##### SUBCHAPTER G. AFFIRMATIVE MARKETING REQUIREMENTS AND WRITTEN POLICIES AND PROCEDURE

###### 10 TAC §§10.800 - 10.803

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures. The purpose of the proposed repeal is to remove outdated language while adopting a new updated rule under separate action.

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

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

1. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing Accessibility and Reasonable Accommodations.

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

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

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

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

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for accessibility and accommodation activity.

7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REG-

ULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 11, 2023 to September 11, 2023, to receive input on the repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Housing Resource Center, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [elizabeth.yevich@tdhca.state.tx.us](mailto:elizabeth.yevich@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time September 11, 2023.

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

Except as described herein the proposed repealed sections affect no other code, article, or statute.

§10.800. *Definitions.*

§10.801. *Affirmative Marketing Requirements.*

§10.802. *Written Policies and Procedures.*

§10.803. *Compliance and Events of Noncompliance.*

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 28, 2023.

TRD-202302694

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 10, 2023

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

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**10 TAC §§10.800 - 10.803**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures. The purpose of the proposed new section is to bring the rule up to date by including the new HOME-ARP program and clarifying and correcting language.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted under items (4) and (9) of that section. The rule ensures Department compliance with the Fair Housing Act and other federal civil rights laws. In spite of these exceptions, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

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

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

Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern accessibility and reasonable accommodations.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The proposed new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule does not increase nor decrease the number of individuals to whom this rule applies; and
8. The new rule will not negatively nor positively affect the state's economy.

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

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. This rule relates to the procedures in place for properties and subrecipients that have been funded by the Department. Other than in the case of a small or micro-business that participate in such programs, no small or micro-businesses are subject to the rule. If a small or micro-business does participate in the program, the rule provides a clear set of regulations for the handling of reasonable accommodations and accessibility.

3. The Department has determined that because this rule relates only to a revision to a rule subrecipients/owners and tenants of an existing program, there will be no economic effect on small or micro-businesses or rural communities.

c. **TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

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

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates only to the processes used in existing multifamily properties and other portfolio subrecipients; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

e. **PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the proposed new rule will be a clearer rule for Recipients and assurance of the program having transparent compliant regulations. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

f. **FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

**REQUEST FOR PUBLIC COMMENT.** The Department will accept public comment from August 11, 2023 to September 11, 2023. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Housing Resource Center, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [elizabeth.yevich@tdhca.state.tx.us](mailto:elizabeth.yevich@tdhca.state.tx.us). **ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, September 11, 2023.**

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

Except as described herein the proposed new sections affect no other code, article, or statute.

§10.800. Definitions.

The capitalized terms in this subchapter shall have the meaning as defined in this title in Chapter 1 (relating to Administration), Chapter 2 (relating to Enforcement), Chapter 11 (relating to the Qualified Allocation Plan), Chapter 12 (relating to the Multifamily Housing Revenue Bond Rules), Chapter 13 (relating to the Multifamily Direct Loan

Rule), or Tex. Gov't Code Chapter 2306, Internal Revenue Code (the Code) §42, the HOME Final Rule, and other federal or Department rules, as applicable.

§10.801. Affirmative Marketing Requirements.

(a) **Applicability.** Compliance with this section is required for all Developments with five or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166.

(b) **General.** A Development Owner with five or more total Units must affirmatively market the Units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or Affirmative Marketing Plan) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as "least likely to apply." To determine the "least likely to apply" populations, a Development Owner is encouraged to use Worksheet 1 of HUD Form 935.2A, but at a minimum the Owner must document that they have compared the demographic composition of the Development to the market area to determine the populations least likely to apply. All Affirmative Marketing Plans must provide for affirmative marketing to Persons with Disabilities. Although not related to Affirmative Marketing requirements in this section, some Developments may be required by their LURAs to market units specifically to veterans or other populations as part of their regular marketing activities. If a Development has included veterans in the Development's Affirmative Marketing Plan it will not be cited as noncompliance the first time the Development's Affirmative Marketing Plan is reviewed, but the Development will be directed to revise the Affirmative Marketing Plan to not include this subpopulation in the plan.

(c) **Plan format.** A Development Owner must prepare, have in its onsite records, and submit to the Department upon request, a written Affirmative Marketing Plan. Owners are encouraged to use any version of HUD Form 935.2A to meet Affirmative Marketing requirements. An Owner participating in a HUD funded program administered by the Department must use the version utilized by the program.

(d) Marketing and Outreach.

(1) The plan must include special outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live. The outreach efforts identified in the Affirmative Marketing Plan must be performed by the Development at least once per calendar year.

(2) To the extent that advertisements and/or marketing materials are utilized for the Development, those materials must contain:

(A) The Fair Housing logo;

(B) The contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process; and

(C) Property contact information must be provided in both English and Spanish, and may be required to be provided in other languages in accordance with Limited English Proficiency Requirements.

(e) Timeframes.

(1) An Owner must begin its affirmative marketing efforts for each of the identified populations least likely to apply at least six months prior to the anticipated date the first building is to be available for occupancy.

(2) Once every five years, Owners must determine if there have been any changes to the "least likely to apply" populations by completing Worksheet 1 of HUD Form 935.2A or a written process with equivalent information. In addition, owners must determine if current advertising sources still exist, and if the outreach that has been performed is still the most applicable. If the Owner determines that the plan does not need to be updated, the backup used to complete Worksheet 1 or its equivalent must be dated and maintained and may be reviewed by Department staff during reviews of the Affirmative Marketing Plan. If there have been changes to the least likely to apply populations or if the community contacts and advertising outlets no longer exist, the plan must be updated. Developments funded by HUD or USDA must also update their plans in accordance with HUD or USDA requirements that apply.

(f) Recordkeeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.

(g) Exception to Affirmative Marketing. If the Development has closed its waitlist, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open waitlist, or is marketing prior to the building being ready for occupancy as required under subsection (e)(1) of this section.

*§10.802. Written Policies and Procedures.*

(a) The purpose of this section is to outline the policies and/or procedures of the Department (also called tenant section criteria) that are required to have written documentation. If an Owner fails to have such Written Policies and Procedures, or fails to follow their Written Policies and Procedures it will be handled as an Event of Noncompliance as further provided in §10.803 of this subchapter (relating to Compliance and Events of Noncompliance).

(1) Owners must inform applicants/tenants in writing, at the time of application, or at the time of other actions described in this section, that such policies/procedures as described in this section are available and that the Owner will provide copies upon request to applicants/tenants or their representatives.

(2) The Owner must have all policies and related documentation required by this section and the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation" available in the leasing office and anywhere else where applications are taken; Developments that accept electronic applications must maintain on their website these Written Policies and Procedures and the same noted forms.

(3) All policies must have an effective date. Any changes made to the policies require a new effective date, and a notice regarding the availability of new policies must be communicated to tenants in writing. Acceptable forms of notification in writing are: an email or letter to all tenants, a note on all occupied Unit doors, or posting for at least 30 calendar days in a mailroom or other central common area, accessible to tenants. Other acceptable forms of notification may be approved by the Department upon request in advance of the policy's effective date.

(4) In general, policies addressing credit, criminal history, and occupancy standards cannot be applied retroactively. Tenants who already reside in the Development or applicants on the waitlist at the time new or revised tenant selection criteria are applied, and who are otherwise in good standing under the lease or waitlist, must not receive notices of termination or non-renewal based solely on their failure to

meet the new or revised tenant selection criteria or be passed over on the waitlist. However, criteria related to program eligibility may be applied retroactively when a market rate development receives a new award of tax credits, federal, or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.

(b) Tenant Selection Criteria. A Development Owner must maintain current and prior versions of the written Tenant Selection Criteria, for the longer of the records retention period that applies to the program, or for as long as tenants who were screened under the historical criteria are occupying the Development.

(1) The criteria identified by a Development must be reasonably related to an applicant's ability to perform under the lease (for a Development with MFDL funding this means to pay the rent, not to damage the housing, and not to interfere with the rights and quiet enjoyment of other tenants) and include at a minimum:

(A) Requirements that determine an applicant's basic eligibility for the Development, including any preferences, restrictions (such as the Occupancy Standard Policy), the Waitlist Policy, Changes in Housing Designation Policy, low income unit designations utilized, and any other tenancy requirements. Any restrictions on student occupancy and any exceptions to those restrictions, as documented in the tenant file as provided for in 10 TAC §10.612(b)(2) of this chapter (relating to Tenant File Requirements) must be stated in the policies;

(B) Applicant screening criteria, including what applicant attributes are screened and what scores or findings would result in ineligibility;

(C) The following statement: Screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and TDHCA's rules;

(D) Specific age requirements if the Development is operating as an Elderly Property either under the Housing for Older Persons Act of 1995 as amended (HOPA), or the age related eligibility criteria required by its use of federal funds.

(2) The criteria must not:

(A) Include preferences for admission, unless it is in a recorded LURA which has been approved by the Department (preferences are required to be in a LURA when a Development has federal or state funding, except for the preference allowed by paragraph (3) of this subsection), is required by a program in which the Owner is participating which requires the preference, or is allowed by paragraph (3) of this subsection. Owners that include preferences in their leasing criteria due to other federal financing must provide to the Department either written approval from HUD, USDA, or VA for such preference, or identify the statute, written agreement, or federal guidance documentation that permits the adoption of this preference;

(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. If an Owner adopts a minimum income standard for households participating in a voucher program, it is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount or \$2,500 annually; or

(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(3) If the Development is funded with HOME, HOME ARP, TCAP RF, NHTF, or NSP funds, in accordance with 24 CFR §93.356 and 24 CFR §92.359, the criteria may have a preference for persons who have experienced domestic violence, dating violence, sexual assault, or stalking.

(4) Occupancy Standard Policy.

(A) If the Development restricts the number of occupants in a Unit in a more restrictive manner than found in Section 92.010 of the Texas Property Code, the Occupancy Standard Policy must allow at least two persons per Bedroom plus one additional person per Unit. An Efficiency Unit that is greater than 600 square feet, must also have an Occupancy Standard Policy of at least three persons per Unit. In an SRO or in an Efficiency that is less than 600 square feet, the Occupancy Standard Policy must allow at least two persons per Unit. Supportive housing or transitional housing Developments where all Units in the Development are SROs or Efficiencies, are not required by the Department to have an Occupancy Standard Policy, except as required for the 811 PRA Program or as reflected in the Development's LURA.

(B) A Development may adopt a more restrictive standard than described in subparagraph (A) of this paragraph, if the Development is required to utilize a more restrictive standard by a local governmental entity, or a federal funding source. However, the Development must have this information available onsite for Department review.

(C) Except for an Elderly Development that meets the requirements of the Housing for Older Persons Act exception under the Fair Housing Act, the Occupancy Standard Policy must state that children that join the household after the start of a lease term will not cause a household to be in violation of the lease.

(c) Reasonable Accommodations Policy. Owners must maintain a written Reasonable Accommodations policy. The policy must be maintained at the Development. Owners are responsible for ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.

(1) The policy must provide:

(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation;

(B) How transfers related to a reasonable accommodation will be addressed; and

(C) A timeframe in which the Owner will respond to a request that is compliant with §1.204(b)(3) and (d) of this title (relating to Reasonable Accommodations).

(2) The policy must not:

(A) Require a household to make a reasonable accommodation request in writing;

(B) Require a household whose need is readily apparent to provide third party documentation of a disability;

(C) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation;

(D) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or

(E) Require a household to rent a unit that has already been made accessible.

(d) Waitlist Policy. Owners must maintain a written waitlist policy, regardless of current Unit availability. The policy must be maintained at the Development. The policy must include procedures the Development uses in:

(1) Opening, closing, and selecting applicants from the waitlist, including but not limited to the requirements in §10.615(b) of this title (relating to Elections under IRC §42(g) and Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments);

(2) Determining how lawful preferences are applied; and

(3) Procedures for prioritizing applicants needing accessible Units in accordance with 24 CFR §8.27, and Chapter 1, Subchapter B of this title (relating to Accessibility and Reasonable Accommodations).

(e) Changes in Household Designation Policy. This is applicable if a Development has adopted a policy in accordance with §10.611(c) of this subchapter (relating to Determination, Documentation and Certification of Annual Income).

(f) Denied Application Policies. Owners must maintain a written policy regarding the procedures they will follow when denying an application and when notifying denied applicants of their rights.

(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.

(2) Within seven days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:

(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based;

(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the Development. An appeals procedure is required for HOME Developments that are owned by Community Housing Development Organizations, and Units at Developments that lease Units under the Department's Section 811 PRA program. The appeals process must provide a 14-day period for the applicant to contest the reason for the denial, and comply with other requirements of the HUD Handbook 4350.3 4-9; and

(C) The TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation."

(3) The Development must keep and may periodically be requested to submit to the Department a log of all denied applicants that completed the application process to include:

(A) Basic household demographic and rental assistance information, if requested during any part of the application process; and

(B) The specific reason for which an applicant was denied.

(4) If an 811 applicant is being denied, within three calendar days of the denial the Department's 811 PRA Program point of contact must be notified and provided with a copy of the written notice that was provided to the applicant.

(g) Non-renewal and/or Termination Notices. A Development Owner must maintain a written policy regarding procedures for providing households non-renewal and termination notices.

(1) The owner must provide in any non-renewal or termination notice, a specific and lawful reason for the termination or non-renewal.

(2) The notification must:

(A) Be delivered as required under applicable program rules and the lease. For HOME, HOME ARP, TCAP RF, NHTF, NSP, HTC, TCAP and Exchange Developments, see 10 TAC §10.613(a) - (b) of this chapter (relating to Lease Requirements). For Section 811 PRA, see 24 CFR §247.4(a) - (f);

(B) Include the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted;

(C) State how a person with a disability may request a reasonable accommodation in relation to such notice; and

(D) Include information on the appeals process if one is used by the Development (this is required under some LURAs, for HOME Developments that are owned by Community Housing Development Organizations, and for 811 PRA units).

(h) At the time of application Owners must provide each adult in the household the TDHCA form based on HUD form 5380 "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD form 5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation." To avoid providing applicants and residents with duplicate information, TDHCA administered Developments layered with other federal funds are permitted to amend the TDHCA VAWA forms to incorporate requirements of other funders. However, none of the information included in the TDHCA created form may be omitted.

(i) Policies and procedures will be reviewed periodically by the Department's Fair Housing staff, as a result of complaints, or through an owner initiated written policies and procedures review. Owners may request a review of the written policies and procedures for a portfolio of Developments by submitting a request to fair.housing@tdhca.state.tx.us. After review by the Department, an Owner may make non-substantive changes to the policies.

(j) Development Owners must allow applicants to submit applications via mail and at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via email, website form, or fax. The Development's tenant selection criteria must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria.

§10.803. Compliance and Events of Noncompliance.

(a) The Department will provide written notice to the Owner if the Department discovers through monitoring, review, resident complaint, or any other manner that the Development is not in compliance with the provisions of this subchapter. A 90 day Corrective Action Period will be provided. Documentation of correction must be received during the Corrective Action Period for an Event of Noncompliance to be considered corrected during the Corrective Action Period. The Department may extend the Corrective Action Period for up to six months from the date of the notice to the Development Owner only if there is good cause for granting an extension and the owner requests an extension during the original 90 day Corrective Action Period, and the

request would not cause the Department or the Owner to miss a federal deadline. Requests for an extension may be submitted to: fair.housing@tdhca.state.tx.us.

(b) If an Owner submits evidence of corrective action during the Corrective Action Period that addresses each issue, but does not fully address all issues, the Department will give the Owner written notice and an additional 10 calendar day period to submit evidence of full corrective action.

(c) If communications to the Owner under this subchapter have a pattern of being returned to the Department as refused, unclaimed, or undeliverable, the Development may be considered not in compliance without further notice to the Owner. The Owner is responsible for providing the Department with current contact information, including address(es) (physical and electronic) and phone number(s). The Owner must also provide current contact information to the Department as required by §1.22 of this title (relating to Providing Contact Information to the Department), and ensure that such information is at all times current and correct.

(d) The Department will rely solely on the information supplied by the Owner in the Department's web-based Compliance Monitoring and Tracking System (CMTS) for notifications under this subchapter. It is the Owner's sole responsibility to ensure at all times that such information is current, accurate, and complete. Correspondence sent to the email or physical address shown in CMTS will be deemed delivered to the Owner. Correspondence from the Department may be directly uploaded to the property's CMTS account using the secure electronic document attachment system. Once uploaded, notification of the attachment will be sent electronically to the email address listed in CMTS. The Department is not required to send a paper copy, and if it does so it does as a voluntary and non-precedential courtesy only.

(e) Events of Noncompliance identified in the evaluation of the requirements of this subchapter will be those specified in §10.625 of this title (relating to Events of Noncompliance).

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 28, 2023.

TRD-202302695

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 10, 2023

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



## CHAPTER 23. SINGLE FAMILY HOME PROGRAM

### SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

#### 10 TAC §23.27

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC Chapter 23,

§23.27. The rule amendments update the authority to grant amendments to Household Commitment Contracts and outline with more specificity the types of amendments that may be granted by the Executive Director's designee. The amendments also increase the term of extension that may be granted by the Executive Director's designee from three months to six months.

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 August 11, 2023, to September 11, 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 HOME@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Central Daylight Time, September 11, 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.

§23.27. *Reservation System Participant (RSP) Agreement.*

(a) Terms of Agreement. The term of an RSP Agreement will not exceed 36 months. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this Chapter in effect as of the date of submission by the Administrator.

(b) Limits on Number of Reservations. Except for Activities submitted under the Disaster set-aside, RSP Administrators may have no more than five Reservations per county within the RSP's Service Area submitted to the Department for approval at any given time, except that Tenant-Based Rental Assistance Reservations submitted for approval under an RSP Agreement is limited to 30 at any given time.

(c) Extremely Low-Income Households. Except for Households submitted under the Disaster set-aside, each RSP will be required to serve at least one extremely low-income Household out of every four Households submitted and approved for assistance. For purposes of this subsection, extremely low-income is defined as families that are either at or below 30 percent AMFI for the county in which they will reside or have an income that is lower than the statewide 30 percent income limit without adjustments to HUD limits.

(d) Match. Administrators must meet the Match requirement per Activity approved for assistance.

(e) Completion of Construction. For Activities involving construction, construction must be complete within 12 months from the Commitment of Funds for the Activity, unless amended in accordance with subsection (g) of this Section.

(f) Household commitment contract term. The term of a Household commitment contract may not exceed 12 months, except that the Household commitment contract term for Tenant-Based Rental Assistance may not exceed 24 months. Household commitment contracts may commence after the end date of an RSP Agreement only in cases when the Administrator has submitted a Reservation on or before the termination date of the RSP Agreement.

(g) Amendments to Household commitment contracts may be considered by the Department provided the approval does not conflict with the federal regulations governing use of these funds, or impact federally imposed obligation or expenditure deadlines.

(1) The Executive Director's authorized designee may approve an amendment that extends the term of a Household commitment contract by not more than six [three] months, except that the term of a Household commitment contract for Tenant-Based Rental Assistance may not be extended to exceed a total Household commitment contract term of 24 months.

(2) The Executive Director's authorized designee may approve one or more [an] amendment to a Household commitment contract to: [ ]

(A) extend the Construction Completion Date by not more than six months;

(B) extend the term of rental subsidy up to a total term of 24 months;

(C) extend the draw period by not more than three months after the Construction Completion Date or termination of rental subsidy; or

(D) increase Activity funds within the limitations set forth in this Chapter.

(3) The Executive Director may approve amendments to a Household commitment contract, except amendments to extend the contract term of a Household Commitment contract by more than 12 months.

(h) Pre-agreement costs. The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the RSP Agreement in accordance with 24 CFR §92.212 and at the sole discretion of the Department. In no event will the Department reimburse expenses incurred more than six months prior to the effective date of the RSP Agreement.

(i) Administrator must remain in good standing with the Department, the state of Texas, and HUD. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

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

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



## TITLE 13. CULTURAL RESOURCES

### PART 2. TEXAS HISTORICAL COMMISSION

#### CHAPTER 12. TEXAS HISTORIC COURTHOUSE PRESERVATION PROGRAM

##### 13 TAC §§12.5, 12.7, 12.9

The Texas Historical Commission (Commission) proposes amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 12, §§12.5, 12.7, and 12.9 related to the Texas Historic Courthouse Preservation Program.

Section 12.5 is revised to provide a clearer definition of "courthouse" and "historic courthouse" to align with the intention of the enabling statute that grants fund the preservation of buildings that serve or have served as the county courthouse. The definition of "historic courthouse structure" is eliminated to avoid redundancy with other definitions, and program eligibility requirements are consolidated in §12.7(a). Definitions of "full restoration" and "restoration period" are added to clarify the parameters for associated grants.

Section 12.7(d) is revised in consideration of Texas Government Code §442.0081(d)(2), which indicates that the commission will give preference to applicants providing at least 15% of the project cost but does not disallow a smaller match. The updated language allows the commission, at its sole discretion, to waive or modify the match requirements in this section.

Section 12.7(e)(3) is revised to reflect a change in the program cap from \$6 million to \$10 million, based on recent legislation that will go into effect on September 1, 2023 (Tex. S.B. 1332, 88 Leg., R.S. (2023), to be codified at Texas Government Code §442.0083(e)). Section 12.7(j) is revised to change a program requirement to a recommendation regarding future grant applications. Section 12.7(k) is added to address construction quality issues with completed projects and requires repayment of grants

for repairs to poor-quality construction if funds are later recovered through litigation or other remedies.

Section 12.9 is revised to correct grammatical and citation errors, and §12.9(c)(23) is added to create a scoring category in consideration for counties continuing to apply for funding.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because the proposed amendments only concern clarifications to an existing program, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, § 2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code § 442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code § 442.0081(h), which authorizes the Commission to adopt rules necessary to implement the Texas Historic Courthouse Preservation Program.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.



§12.5. *Definitions.*

When used in this chapter, the following words or terms have the following meanings unless the context indicates otherwise:

(1) Texas Historic Courthouse Preservation Program. Means the grant or loan program created by Texas Government Code §§442.0081 - 442.0083.

(2) The Courthouse Fund Account. Means a separate account in the general revenue fund. The account consists of transfers made to account, payment on loans made under the historic courthouse preservation program, grants and donations received for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account.

(3) Texas Courthouse Preservation Program Advisory Committee. Means a committee that serves the commission in matters concerning the courthouse program.

(4) Courthouse. Means the principal buildings [building(s)] which serve as the primary seat of [houses] county government of the county in which it is located, [offices and courts] and its [(their)] surrounding sites [site(s)] (typically the courthouse square). The courthouse includes additions or annexes physically attached to the building that were constructed for the purpose of expanding the functions of the courthouse, but it does not include other freestanding buildings on the site.

(5) Historic courthouse. Means a [county courthouse or] building that currently or previously served as a county courthouse, as defined in paragraph (4) of this section, and which entered service as a courthouse [that is] at least 50 years [old] prior to the due date of the grant application, [with the initial date of service defined as the date of] using the first [official] commissioners court meeting as its first date of service [in the building]. A historic courthouse may include additions or annexes physically attached to the courthouse for at least 50 years prior to the due date of the grant application.

(6) Historic courthouse project. Means an undertaking to preserve or restore a historic courthouse.

~~[(7) Historic courthouse structure. Means a courthouse structure that is a structure that currently or previously served as the official county courthouse of the county in which it is located; and that is:]~~

~~[(A) at least 50 years old prior to the date of application, with the initial date of service defined as the date of the first official commissioners court meeting in the building;]~~

~~[(B) listed on the National Register of Historic Places;]~~

~~[(C) designated a Recorded Texas Historic Landmark;]~~

~~[(D) designated a State Antiquities Landmark;]~~

~~[(E) determined by the commission to qualify as an eligible property under the designations noted above;]~~

~~[(F) certified by the commission to the other state agencies as worthy of preservation; or]~~

~~[(G) designated by an ordinance of a municipality with a population of more than 1.5 million as historic.]~~

(7) [(8)] Master preservation plan or master plan. Means a comprehensive planning document that includes the historical background of a courthouse, as well as a detailed analysis of its architectural integrity, current condition, and future needs for preservation. The commission shall promulgate specific guidelines for developing the document.

(8) [(9)] Conservation Easement. Means a voluntary legal agreement whereby the property owner grants the Commission an interest in the property for the purpose of preservation of historic, architectural, scenic and open space values, also may be called a preservation easement.

(9) [(10)] Construction Documents (also known as contract documents). Means the written and graphic instructions used for construction of a project which are prepared by an architect and their engineering consultants. May also be called architectural plans and specifications.

(10) [(11)] Restoration. Means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restored period. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(11) [(12)] Reconstruction. Means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(12) [(13)] Preservation. Means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(13) [(14)] Rehabilitation. Means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(14) Full restoration. Means a construction grant to undertake a project to restore a courthouse to its appearance at an agreed upon restoration period, which includes removing additions and alterations from later periods and reconstructing features missing from the restoration period. This treatment applies to the site, exterior of the courthouse, and interior public spaces such as the corridors, stairways, and courtrooms. Secondary spaces may be preserved or rehabilitated rather than restored. Additions or attached annexes must be removed if they post-date the selected restoration period. Retention or removal of site features from outside of the restoration period may be evaluated on a case-by-case basis.

(15) Restoration period. Means the date selected for the purpose of defining the full restoration of a courthouse, representing the most significant time in the courthouse's history. Selection of the restoration period must be justified based on documentary and physical evidence and surviving integrity of historic materials from that period, and it must be described in the master plan for the restoration project. The restoration period represents a time when the building in its entirety exhibited a cohesive architectural style exemplifying the work of an architect or a period when the building experienced a significant historical event.

(16) [(15)] Match requirement. Means the percentage of the total project cost that must be provided by a county or municipality.

(17) [(46)] Current cash match. Means monies to be paid by a county or municipality as part of the preservation project described in a current request for grant or loan funding.

(18) [(47)] Current in-kind match. Materials and labor to be donated as part of the preservation project described in a current request for grant or loan funding.

(19) [(48)] Planning match. Means county or [of] municipal monies spent on an approved master preservation plan or approved construction plans and specifications.

§12.7. *Grant or Loan Program.*

(a) Property Eligibility. In order to be eligible for grants or loans under the courthouse program, a historic courthouse owned by either a county or municipality must be: [~~determined a historic courthouse structure as defined in §12.5 of this chapter.~~]

(1) listed in the National Register of Historic Places;

(2) designated a Recorded Texas Historic Landmark;

(3) designated a State Antiquities Landmark;

(4) determined by the commission to qualify as an eligible property under the designations noted above;

(5) certified by the commission as worthy of preservation;

or,

(6) designated by an ordinance of a municipality with a population of more than 1.5 million as historic.

(b) Master plan requirement. In order to be eligible for funding, a county or municipality must have completed a current master preservation plan approved by the commission. The commission may require an outdated master plan be updated prior to the date of application or a before a grant or loan is approved.

(c) Types of Assistance. The commission may provide financial assistance in the form of grants or loans. Grant or loan recipients shall be required to follow the terms and conditions of the Texas Historic Courthouse Preservation Program and other terms and conditions imposed by the commission at the time of the grant award or loan.

(d) Match for grant or loan assistance. Applicants eligible to receive grant or loan assistance should [must] provide a minimum of 15% of the total project cost or other match requirements as determined by the commission. Credit toward the match may be given for a county's or municipality's prior capital and in-kind contributions and prior master planning costs [-], with not [Not] less than one half of the match [must be] derived from current cash match and/or planning match. In exceptional circumstances, the commission may, at its sole discretion, waive the match requirements and/or approve a larger credit toward prior expenditures.

(e) Allowable use of grant or loan monies.

(1) A county or municipality that receives money under the courthouse program must use the money only for preservation, reconstruction, rehabilitation, restoration or other expenses that the commission determines eligible.

(2) All work must comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised).

(3) Individual grants or loans may not exceed \$10 (ten) [~~\$6 (six)~~] million and the cumulative total may not exceed \$10 (ten) [~~\$6~~] million to any one county or municipality.

(4) The commission may grant a different amount than requested in a courthouse grant application.

(f) Administration. The courthouse program shall be administered by the commission.

(g) Advisory Committee.

(1) The commission may appoint Advisory Committees or other working groups to advise the commission on matters related to the Texas Historic Courthouse Preservation Program including courthouse maintenance.

(2) The commission should consider the following when selecting members of an advisory committee or working group:

(A) geographic diversity;

(B) population;

(C) area of expertise; and/or

(D) representation of the public interest.

(h) Procedures. The commission shall adopt procedures, and revise them as necessary, to implement the Texas Historic Courthouse Preservation Program.

(i) Compliance with current program grant manual and all other rules, statutes, policies, procedures and directives is mandatory for all historic courthouse projects unless written exception is provided by the commission due to unforeseen circumstances beyond the control of grantee or grantor.

(j) Grants for Construction Plans and Specifications:

(1) The commission may make grants for the purpose of completing construction plans and specifications for courthouse construction projects.

(2) A county or municipality receiving a grant for completing plans and specifications is encouraged to [must] apply for a construction grant from this program at the next grant program funding opportunity following commission acceptance of the complete plans and specifications. In the subsequent grant application, the county or municipality should [must] provide at least an equal level of commitment to program components as provided in their previous funding applications. [~~If a construction grant is awarded, the county or municipality must go forward with construction of the courthouse project so funded. If a grant is not awarded, the county or municipality must continue to apply for construction grants and make a good-faith effort to receive the grant when subsequent opportunities arise.~~]

[(3) A county or municipality that does not apply for a construction grant in accordance with this section at each grant funding opportunity during the following six years or does not complete the courthouse project by other means within these six years following the commission's acceptance of the plans and specifications will be required to repay the grant for plans and specifications to the commission unless the commission votes to allow additional time to accomplish the construction project.]

[(4) A county or municipality that continues to apply for construction grants and makes a good-faith effort to receive the award and does not receive a grant or is able to complete the construction project by other good faith efforts will not be required to repay the grant.]

(k) Grants for Construction Defects:

(1) The commission may make grants for the purpose of remedying defects in construction quality from a previous grant-funded project. Before applying for such a grant, a county or municipality must first pursue repairs under warranty or administrative remedies with their contractor, architect, or other party at fault for the defect.

(2) If a county or municipality that receives a grant to remedy a construction defect later recovers funds related to the scope of the grant through litigation or a settlement agreement, the net amount recovered, minus court costs and attorney's fees, shall be ineligible for grant reimbursement. The commission may recapture the grant, or if the net amount recovered is insufficient to accomplish the full scope of work for the grant, the commission may revise the grant budget to consider such funds as the cash match and recapture the excess amount of the grant award. Further, the county or municipality must repay any such funds that were previously reimbursed, proportionate to the state share of the overall project costs.

*§12.9. Application Requirements and Considerations.*

(a) A county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must include:

- (1) the address of the courthouse;
- (2) a statement of the historic designations that the courthouse has or is likely to receive;
- (3) a statement of the amount of money that the county or municipality commits to contribute to the project;
- (4) a statement of previous county or municipal monies spent on planning which the county or municipality may be allowed as credit toward their match;
- (5) a statement of whether the courthouse is currently functioning as a courthouse or other public facility;
- (6) copies of any plans, including the required master preservation plan or construction plans and specifications, that the county or municipality may have for the project unless the commission already has these plans on file;
- (7) copies of existing deed covenants, restrictions or easements held by the commission or other preservation organizations;
- (8) statements of support from local officials and community leaders; ~~and~~
- (9) the current cost estimate of the proposed project; and
- (10) any other information that the commission may require.

(b) The Texas Historic Courthouse Preservation Program will be a competitive process, with applications evaluated and grants awarded based on the factors provided in this section, including the amount of program money for grants.

- (1) Funding requests may be reduced by the commission to reflect ineligible project costs or smaller scopes or phases of work such as planning for the construction work.
- (2) The commission may adjust the amount of a previously awarded grant up and/or down based on the changing conditions of the property and the program.

(c) In considering whether to grant an application, the commission will assign weights to and consider each of the following factors:

- (1) the status of the building as a functioning courthouse;
- (2) the age of the courthouse;
- (3) the degree of endangerment;
- (4) whether the courthouse is subject to a current conservation easement or covenant held by the commission;

(5) whether the proposal is in conformance with the approved master plan and addresses the current condition and needs of the property in proper sequence;

(6) whether the county or municipality agrees to place/extend a preservation easement/covenant and/or deed restriction as part of the grant process;

(7) the importance of the building within the context of an architectural style;

(8) whether the proposal addresses and remedies former inappropriate changes;

(9) the historic significance of the courthouse, as defined by 36 CFR §60.4 [§101(a)(2)(A) and (E)], and National Park Service [NPS] Bulletin 15, "How to Apply the National Register Criteria for Evaluation;"

(10) the degree of surviving integrity of original design and materials;

(11) if a county or municipality submits completed and commission-approved construction plans and specifications for proposed work at the time of the application, provided the plans and specifications comply with the previously approved master plan;

(12) the use of the building as a courthouse after the project;

(13) the county's or municipality's provision of a match greater than 15% of the grant request;

(14) the degree to which the proposal achieves a fully restored county courthouse;

(15) the status of the courthouse in terms of state and local historical designations that are in place;

(16) the county or municipal government's provision of preservation incentives and support of the county historical commission and other county-wide preservation efforts;

(17) the location of the county in a region with few awarded courthouse grant applications;

(18) the existence of a plan for physically protecting county records during the restoration and afterwards, as well as an assessment of current and future space needs and public accessibility for such records, if county-owned;

(19) the existence of a strong history of compliance with the state courthouse law (Texas Government Code, §[§]442.008[+ - 442.0083] and the Antiquities Code of Texas, Texas Natural Resources Code Chapter 191);

(20) the effort to protect and enhance surrounding historic resources;

(21) the evidence of community support and county or municipality commitment to protection; ~~and~~

(22) the applicant's local funding capacity as measured by the total taxable value of properties in the jurisdiction; ~~and~~[-]

(23) the number of prior cycles in which a county has applied for and not received a full restoration grant.

(d) Other Considerations.

(1) The factors noted in subsection (c) of this section, and any additional ones determined necessary by the commission, will be published prior to each individual grant round as part of the formal procedures for the round.

(2) The commission may distribute a portion of the funds available for each grant period to be used for specific purposes on an expedited basis and/or granted through different criteria than other funds. Such specific purposes may include, but are not limited to, the following:

(A) Emergency repairs necessary to address or prevent catastrophic damage to the courthouse; or

(B) Compliance with the Americans with Disabilities Act or other state or federally mandated repairs or modifications; or

(C) Previously awarded projects that require additional funding to accomplish the intended goals of the project; or

(D) Updates to approved courthouse preservation master plans.

(3) Any such distribution to a specific purpose or change in criteria must be decided by a vote of the commission and advertised to the potential grantees prior to the date for the submission of applications.

(e) As a condition for a county or municipality to receive money under the courthouse fund, the commission may require creation of a conservation easement on the property, and may require creation of other appropriate covenants in favor of the state. The highest preference will be given to counties agreeing to the above referenced easements or covenants at the time of application.

(f) The commission shall provide oversight of historic courthouse projects.

(1) The commission may make periodic inspections of the projects during construction and/or upon and following completion to ensure compliance with program rules and procedures.

(2) The commission may require periodic reports to ensure compliance with program rules and procedures and as a prerequisite to disbursement of grant or loan funds.

(3) The commission may adopt additional procedures to ensure program compliance.

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

Filed with the Office of the Secretary of State on July 28, 2023.

TRD-202302699

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 463-6100



## CHAPTER 13. TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM

### 13 TAC §§13.1 - 13.3

The Texas Historical Commission (Commission) proposes amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 13, Sections 13.1, 13.2, and 13.3, related to the Texas Historic Preservation Tax Credit Program. The amendments are to Texas Tax Code citations.

Legislation for the Texas Historic Preservation Tax Credit Program has resided in Subchapter S of Chapter 171 of the code, which defines the state's franchise tax. Legislation that goes into effect on September 1, 2023 will move Subchapter S from Chapter 171 into its own chapter, Chapter 172 (Tex. S.B. 1013, 88 Leg., R.S. (2023)). All language in the rules remains the same, except for seven references directly to Chapter 171 of the Texas Tax Code. These are now proposed to reference Chapter 172.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because the proposed amendments only concern clarifications to an existing program, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, § 2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code § 442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code § 172.110, of the Texas Tax Code, which authorizes the Commission to adopt rules necessary to

implement the Tax Credit for Certified Rehabilitation of Certified Historic Structures.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

*§13.1. Definitions.*

The following words and terms when used in these rules shall have the following meanings unless the context clearly indicates otherwise:

(1) Applicant--The entity that has submitted an application for a building or structure it owns or for which it has a contract to purchase.

(2) Application--A fully completed Texas Historic Preservation Tax Credit Application form submitted to the Commission, which includes three parts:

(A) Part A - Evaluation of Significance, to be used by the Commission to make a determination whether the building is a certified historic structure;

(B) Part B - Description of Rehabilitation, to be used by the Commission to review proposed projects for compliance with the Standards for Rehabilitation; and

(C) Part C - Request for Certification of Completed Work, to be used by the Commission to review completed projects for compliance with the work approved under Part B.

(3) Application fee--The fee charged by the Commission and paid by the applicant for the review of Part B and Part C of the application as follows:

Figure: 13 TAC §13.1(3) (No change.)

(4) Audited cost report--Such documentation as defined by the Comptroller in 34 TAC Chapter 3, Tax Administration.

(5) Building--Any edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which is principally to shelter any form of human activity, such as shelter or housing, or to provide working, office, parking, display, or sales space. The term includes, among other examples, banks, office buildings, factories, warehouses, barns, railway or bus stations, and stores and may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Functional constructions made usually for purposes other than creating human shelter or activity such as bridges, windmills, and towers are not considered buildings under this definition and are not eligible to be certified historic structures.

(6) Certificate of Eligibility--A document issued by the Commission to the owner, following review and approval of a Part C application, that confirms the property to which the eligible costs and expenses relate is a certified historic structure and the rehabilitation qualifies as a certified rehabilitation; and specifies the date the certified historic structure was first placed in service after the rehabilitation.

(7) Certified historic structure--A building or buildings located on a property in Texas that is certified by the Commission as:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under §442.006, Texas Government Code, or as a State Antiquities Landmark under Chapter 191, Texas Natural Resources Code; §21.6 and §26.3(66) and (67) of this title (relating to Recorded Texas Historic Landmark Designation and Definitions, respectively); or

(C) certified by the Commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a certified local district as per 36 CFR §67.9.

(8) Certified local district--A local historic district certified by the United States Department of the Interior in accordance with 36 CFR §67.9.

(9) Certified rehabilitation--The rehabilitation of a certified historic structure that the Commission has certified as meeting the Standards for Rehabilitation. If the project is submitted for the federal rehabilitation tax credit, it must be reviewed by the National Park Service prior to a determination that it meets the requirements for a certified rehabilitation under this rule. In the absence of a determination for the federal rehabilitation tax credit, the Commission shall have the sole responsibility for certifying the project.

(10) Commission--The Texas Historical Commission.

(11) Comptroller--The Texas Comptroller of Public Accounts.

(12) Contributing--A building in a historic district considered to be historically, culturally, or architecturally significant according to the criteria established by state or federal government, including those formally promulgated by the National Park Service and the United States Department of the Interior at 36 CFR Part 60 and applicable National Register bulletins.

(13) Credit--The tax credit for the certified rehabilitation of certified historic structures available pursuant to Chapter 172 [~~171~~, ~~Subchapter S~~] of the Texas Tax Code.

(14) District--A geographically definable area, urban, or rural, possessing a significant concentration, linkage, or continuity of sites, building, structures, or objects united by past events geographically but linked by association or history.

(15) Eligible costs and expenses--The qualified rehabilitation expenditures as defined by §47(c)(2), Internal Revenue Code, including rehabilitation expenses as set out in 26 CFR §1.48-12(c), incurred during the project, except as otherwise specified in Chapter 172 [~~171~~, ~~Subchapter S~~] of the Texas Tax Code.

(16) Federal rehabilitation tax credit--A federal tax credit for 20% of qualified rehabilitation expenditures with respect to a certified historic structure, as defined in §47, Internal Revenue Code; 26 CFR §1.48-12; and 36 CFR Part 67.

(17) Functionally related buildings--A collection of buildings that were constructed or used to serve and support an overall single purpose during their period of significance. Examples include but are not limited to: a residence and carriage house; a multi-building apartment complex; a multi-building industrial or commercial complex; or buildings constructed as a campus. Buildings within a typical neighborhood or downtown commercial historic district, among other property types, do not count as functionally related buildings with other buildings in the district, unless there is a certain historical attachment other than community development. Functionally related buildings owned by one entity are viewed as a single property while those owned by separate entities are viewed as separate properties.

(18) National Park Service--The agency of the U.S. Department of the Interior that is responsible for certifying projects to receive the federal rehabilitation tax credit.

(19) Owner--A person, partnership, company, corporation, whether for profit or not, governmental body, an institution of higher education or university system or any other entity holding a legal or equitable interest in a Property or Structure, which can include a full or

partial ownership interest. Not all of these owner entities can qualify as an applicant for the credit, based on the requirements listed in Chapter 172 [~~171~~, ~~Subchapter S~~] of the Texas Tax Code. A long-term lessee of a property may be considered an owner if their current lease term is at a minimum 27.5 years for residential rental property or 39 years for nonresidential real property, as referenced by §47(c)(2), Internal Revenue Code.

(20) Phased development--A rehabilitation project which may reasonably be expected to be completed in two or more distinct states of development, as defined by United States Treasury Regulation 26 CFR §1.48-12(b)(2)(v). Each phase of a phased development can independently support an Application for a credit as though it was a stand-alone rehabilitation, as long as each phase meets the definition of a Project. If any completed phase of the rehabilitation project does not meet the requirements of a certified rehabilitation, future applications by the same owner for the same certified historic structure will not be considered.

(21) Placed in Service--A status obtained upon completion of the rehabilitation project as described in Part B of the application, and any subsequent amendments, and documented in Part C of the application. Evidence of the date a property is placed in service includes a certificate of occupancy issued by the local building official and/or an architect's certificate of substantial completion. Other documents will suffice when certificates of occupancy and/or substantial completion are not available for a specific project, including final contractor invoices or other verifiable statements of completion. Alternate documents should be approved by the Commission before submission. Placed in Service documentation must indicate the date that work was completed.

(22) Project--A specified scope of work, as described in a rehabilitation plan submitted with Part B of the application and subsequent amendments, comprised of work items that will be fully completed and Placed in Service. Examples of a project may include, but are not limited to, a whole building rehabilitation, rehabilitation of individual floors or spaces within a building, repair of building features, or replacement of building systems (such as mechanical, electrical, and plumbing systems). Partial or incomplete scopes of work, such as project planning and design, demolition, or partial completion of spaces, features, or building systems are not included in this definition as projects. Per §13.6(f) of this title (relating to Application Review Process), the Commission's review encompasses the entire building and site even if other work items are not included in a submitted project.

(23) Property--A parcel of real property containing one or more buildings or structures that is the subject of an application for a credit.

(24) Rehabilitation--The process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while retaining those portions and features of the building and its site and environment which are significant.

(25) Rehabilitation plan--Descriptions, drawings, construction plans, and specifications for the proposed rehabilitation of a certified historic structure in sufficient detail to enable the Commission to evaluate compliance with the Standards for Rehabilitation.

(26) Standards for Rehabilitation--The United States Secretary of the Interior's Standards for Rehabilitation as defined by the National Park Service in 36 CFR §67.7.

(27) Structure--A building; see also certified historic structure. "Structure" may be used in place of the word "building," but all

tax credit projects must involve rehabilitation of a building as defined in §13.1(5) of this title.

(28) Tax Credit--A credit earned against either the state franchise tax or the insurance premium tax per Chapter 172 [~~171~~] of the Texas Tax Code and any limitations provided therein.

### §13.2. *Qualification Requirements.*

#### (a) Qualification for credit.

(1) An Owner is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure if:

(A) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(B) the Owner has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(C) the total amount of the eligible costs and expenses incurred exceeds \$5,000.

(2) A property for which eligible costs and expenses are submitted for the credit must meet Internal Revenue Code §47(c)(2) which includes:

(A) non-residential real property;

(B) residential rental property; or

(C) other property types exempted from parts of Internal Revenue Code §47(c)(2) as described in Chapter 172 [~~171~~, ~~Subchapter S~~] of the Texas Tax Code.

(b) Eligible costs and expenses. Eligible costs and expenses means those costs and expenses allowed pursuant to Internal Revenue Code §47(c)(2) or as exempted by Chapter 172 [~~171~~, ~~Subchapter S~~] of the Texas Tax Code. Such eligible costs and expenses, include, but are not limited to:

(1) expenditures associated with structural components as defined by United States Treasury Regulation §1.48-1(e)(2) including walls, partitions, floors, ceilings, windows and doors, stairs, elevators, escalators, sprinkler systems, fire escapes, components of central air conditioning, heating, plumbing, and electrical systems, and other components related to the operation or maintenance of the building;

(2) architectural services;

(3) engineering services;

(4) construction management and labor, materials, and reasonable overhead;

(5) subcontracted services;

(6) development fees;

(7) construction period interest and taxes; and

(8) other items referenced in Internal Revenue Code §47(c)(2).

(c) Ineligible costs and expenses. Eligible costs and expenses as defined in Internal Revenue Code §47(c)(2) do not include the following:

(1) the cost of acquiring any interest in the property;

(2) the personal labor by the applicant;

(3) any cost associated with the enlargement of an existing building;

(4) site work expenditures, including any landscaping, sidewalks, paving, decks, outdoor lighting remote from the building, fencing, retaining walls or similar expenditures; or

(5) any cost associated with the rehabilitation of an outbuilding or ancillary structure unless it is certified by the Commission to contribute to the historical significance of the property.

(d) Eligibility date for costs and expenses.

(1) Part A of the Texas Historic Preservation Tax Credit Certification Application must be submitted prior to the building being placed in service per §13.1(21) of this title (relating to Definitions). Projects that have been placed in service prior to submission of Part A of the application do not qualify for the program.

(2) While the credit may be claimed for eligible costs and expenses incurred prior to the filing of an application, potential applicants are urged to file Parts A and B of the application at the earliest possible date. This will allow the Commission to review the application and provide guidance to the applicant that will increase the chances that the application will ultimately be approved and the credit received.

(e) Phased development. Part B applications for rehabilitation of the same certified historic structure may be submitted by the same owner only if they describe clearly defined phases of work that align with a cost report that separates the eligible costs and expenses by phase. Separate Part B and C applications shall be submitted for review by the Commission prior to issuance of a certificate of eligibility for each phase.

(f) Amount of credit. The total amount of credit available is twenty-five percent (25%) of the aggregate eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

### §13.3. Evaluation of Significance.

(a) Application Part A - Evaluation of Significance. Part A of the application requires information to allow the Commission to evaluate whether a building is a certified historic structure and shall be completed for all buildings to be included in the project. Part A of the application is evaluated against criteria for significance and integrity issued by the National Park Service.

(b) Application Requirements. Information to be submitted in Part A of the application includes:

(1) Name, mailing address, telephone number, and email address of the property owner(s) and Applicant if different from the Owner;

(2) Name and address of the property;

(3) Name of the historic district, if applicable;

(4) Current photographs of the building and its site, showing exterior and interior features and spaces adequate to document the property's significance. Photographs must be formatted as directed by the Commission in published program guidance materials on the Commission's online Texas Historic Preservation Tax Credit Application Guide available by accessing [thc.texas.gov](http://thc.texas.gov);

(5) Date of construction of the property;

(6) Brief description of the appearance of the property, including alterations, characteristic features, and estimated date or dates of construction and alterations;

(7) Brief statement of significance summarizing why a property is:

(A) eligible for individual listing in the National Register of Historic Places;

(B) contributes to a historic district listed in the National Register of Historic Places or a certified local district; or

(C) contributes to a potential historic district, accompanied by:

(i) a map showing the boundary of the potential historic district and the location of the property within the district;

(ii) photographs of other properties in the district; and

(iii) justification for the district's eligibility for listing in the National Register of Historic Places;

(8) A map showing the location of the historic property;

(9) Signature of the Owner, and Applicant if different from the Owner, requesting the determination; and

(10) Other information required on the application by the Commission.

(c) Consultation with Commission. Any person may informally consult with the Commission to determine whether a property is:

(1) listed individually in the National Register of Historic Places;

(2) designated as a Recorded Texas Historic Landmark or State Antiquities Landmark; or

(3) certified by the Commission as contributing to the historic significance of a historic district listed in the National Register of Historic Places or a certified local district.

(d) Automatic qualification as certified historic structure. If a property is individually listed in the National Register of Historic Places or designated as a Recorded Texas Historic Landmark or State Antiquities Landmark, then it is a certified historic structure and should be indicated as such on Part A of the application.

(e) Preliminary determination of significance. An Applicant for a property not listed in the National Register of Historic Places, neither individually nor as a contributing element to a historic district; not designated a Recorded Texas Historic Landmark nor State Antiquities Landmark; and not listed in a certified local district may obtain a preliminary determination from the Commission as to whether the property is individually eligible to become a certified historic structure or is eligible as a contributing structure in a potential historic district by submitting Part A of the application. Determination will be based on criteria for listing in the National Register of Historic Places. Applications for a preliminary determination of significance must show how the property meets one of the following criteria for listing in the National Register of Historic Places and any applicable criteria considerations from the National Park Service.

(1) National Register of Historic Places criteria. The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and one or more of subparagraphs (A) - (D) of this paragraph:

(A) Properties that are associated with events that have made a significant contribution to the broad patterns of our history; or

(B) that are associated with the lives of persons significant in our past; or

(C) that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master,

or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(D) that have yielded, or may be likely to yield, information important in prehistory or history.

(2) Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(A) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

(B) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(C) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life; or

(D) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

(E) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(F) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

(G) A property achieving significance within the past 50 years if it is of exceptional importance.

(3) Issuance of a preliminary determination of significance does not bind the Commission to the designation of an individual historic structure or district. Applicants proceed with rehabilitation projects at their own risk. If a structure is ultimately not listed in the National Register of Historic Places, designated as a Recorded Texas Historic Landmark, or certified as a contributing element to a local district pursuant to 36 CFR §67.9, the preliminary determination does not become final, and the owner will not be eligible for the credit. The Commission shall not issue a certificate of eligibility until or unless the designation is final.

(f) Determination of contributing structures in existing historic districts. If a property is located in a district listed in the National Register of Historic Places or in a certified local district, an Applicant or an Owner of the property shall request that the Commission determine whether the property is of historic significance contributing to the district by submitting Part A of the application. The Commission evaluates properties located within historic districts listed in the National Register of Historic Places or certified local districts to determine whether they contribute to the historic significance of the district by applying the following standards:

(1) A property contributing to the historic significance of a district is one which by location, design, setting, materials, workman-

ship, feeling, and association adds to the district's sense of time and place and historical development.

(2) A property does not contribute to the historic significance of a district if it does not add to the district's sense of time and place and historical development, or if its location, design, setting, materials, workmanship, feeling, and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.

(3) Generally, buildings that have been built within the past 50 years shall not be considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old at the date of application.

(4) Certification of significance will be made on the basis of the appearance and condition of the property before beginning the rehabilitation work.

(5) If a nonhistoric surface material obscures a building's façade, it may be necessary for the owner to remove a portion of the surface material so that a determination of significance can be made. After the material has been removed, if the obscured façade has retained substantial historic integrity and the property otherwise contributes to the significance of the historic district, it will be considered eligible to be a certified historic structure.

(g) Subsequent Designation. A building must be a certified historic structure prior to the issuance of the certificate of eligibility by the Commission as required by §172.105 [471.904](b)(1)(A) of the Texas Tax Code. If a property is not automatically qualified as a certified historic structure, an owner of a property shall request that the Commission determine whether the property is of historic significance by submitting Part A of the application in accordance with subsections (e) and (f) of this section. Upon listing in the National Register of Historic Places, designation as a Recorded Texas Historic Landmark, or certification as a contributing element to a local district pursuant to 36 CFR §67.9, Commission staff overseeing the National Register program and the Official Texas Historical Marker program (as applicable), shall prepare a notification, to be filed with the tax credit application, indicating that the designation process required by Part A has been fulfilled.

(h) Multiple buildings. If a property owned by one entity contains more than one building and the Commission determines that the buildings have been functionally related historically, per §13.1(17) of this title (relating to Definitions), to serve an overall purpose (such as a residence and a carriage house), then the functionally related buildings will be treated as a single certified historic structure, regardless of whether one of the buildings is separately listed in the National Register of Historic Places or as a Recorded Texas Historic Landmark or is located within a historic district. Buildings owned by the same applicant that were not functionally related historically must be submitted as individual buildings on separate applications.

(i) Portions of buildings. Portions of buildings, such as single condominium apartment units, are not independently eligible for certification as an individual space without assessment of any work undertaken elsewhere in the building within the last 24 months, as described in §13.6(f) of this title (relating to Application Review Process). This rule applies even when a building has multiple owners. A full description of all work at the building must be provided with the application.

(j) Relocation of historic buildings. Relocation of a historic building from its original site may disqualify the building from eligibility or result in removal of designation as a certified historic structure. Applications involving buildings that have been moved or are to



be moved will be evaluated on a case-by-case basis under the applicable criteria for designation as provided in this section. For a building listed in the National Register of Historic Places, the applicant will be responsible for updating the National Register of Historic Places nomination for the property or district, or the relocated building will not be considered a certified historic structure for the purpose of this credit. For a building designated as a Recorded Texas Historic Landmark, the applicant will be responsible for notifying the Commission and otherwise complying with the requirements of §21.11 of this title (relating to Review of Work on Recorded Texas Historic Landmarks) prior to undertaking any relocation.

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

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Mark Wolfe

Executive Director

Texas Historical Commission

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For further information, please call: (512) 463-6100



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 150. COMMISSIONER'S RULES CONCERNING EDUCATOR APPRAISAL

##### SUBCHAPTER AA. TEACHER APPRAISAL

###### 19 TAC §150.1002, §150.1004

The Texas Education Agency (TEA) proposes amendments to §150.1002 and §150.1004, concerning teacher appraisal. The proposed amendments would allow districts to begin using the Alternate Domain I rubric as part of the Texas Teacher Evaluation and Support System (T-TESS) beginning with the 2024-2025 school year.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 150.1002 defines the requirements a school district must meet each school year regarding the assessment of teacher performance. Section 150.1004 defines the requirements for a teachers' response and appeal to a written observation summary or any other written documentation related to appraisal ratings.

The proposed amendment to §150.1002 would add language that allows districts to use the Alternate Domain I rubric as part of the T-TESS beginning with the 2024-2025 school year. The proposed amendment to §150.1004 would add language that allows teachers to respond or appeal written documentation for Alternate Domain I ratings.

The Alternate Domain I rubric was developed to address the shift in teacher responsibilities from lesson planning to lesson internalization. The proposed changes would allow districts to use either the current Domain I rubric or the Alternate Domain I rubric to assess teacher performance.

**FISCAL IMPACT:** Andrew Hodge, associate commissioner for system innovation, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state

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

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

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

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

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

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand existing regulations by allowing districts to begin using the Alternate Domain I rubric as part of the T-TESS beginning with the 2024-2025 school year and allowing teachers to respond to or appeal written documentation for Alternate Domain I ratings.

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 limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Hodge 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 allowing districts to begin using the Alternate Domain I rubric as part of the T-TESS beginning with the 2024-2025 school year. 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 August 11, 2023, and ends September 11, 2023. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on August 11, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §21.351, which requires the commissioner of education to adopt a state-recommended appraisal process for teachers.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §21.351.

*§150.1002. Assessment of Teacher Performance.*

(a) Each teacher shall be appraised on the following domains and dimensions of the Texas Teacher Evaluation and Support System (T-TESS) rubric that is aligned to the Texas Teacher Standards in Chapter 149 of this title (relating to Commissioner's Rules Concerning Educator Standards).

(1) Domain I. Planning or Alternate Domain I. Lesson Internalization, which includes the following dimensions:

- (A) standards and alignment;
- (B) data and assessment;
- (C) knowledge of students; and
- (D) activities.

(2) Domain II. Instruction, which includes the following dimensions:

- (A) achieving expectations;
- (B) content knowledge and expertise;
- (C) communication;
- (D) differentiation; and
- (E) monitor and adjust.

(3) Domain III. Learning Environment, which includes the following dimensions:

- (A) classroom environment, routines, and procedures;
- (B) managing student behavior; and
- (C) classroom culture.

(4) Domain IV. Professional Practices and Responsibilities, which includes the following dimensions:

- (A) professional demeanor and ethics;
- (B) goal setting;
- (C) professional development; and
- (D) school community involvement.

(b) The evaluation of each of the dimensions identified in subsection (a) of this section shall consider all data generated in the appraisal process. The data for the appraisal of each dimension shall be gathered from pre-conferences, observations, post-conferences, end-of-year conferences, the Goal-Setting and Professional Development Plan process, and other documented sources.

(c) Each teacher shall be evaluated on the 16 dimensions in Domain I or Alternate Domain I and Domains II-IV [~~Domains I-IV~~] identified in subsection (a) of this section using the following categories:

- (1) distinguished;
- (2) accomplished;
- (3) proficient;
- (4) developing; and

(5) improvement needed.

(d) Beginning with the 2017-2018 school year, each teacher appraisal shall include the performance of teachers' students, as defined in §150.1001(f)(2) of this title (relating to General Provisions).

(e) Beginning with the 2024-2025 school year, teachers may be appraised using Domain I or Alternate Domain I based on the alignment of teacher responsibilities to lesson planning or lesson internalization.

(f) [(e)] If calculating a single overall summative appraisal score for teachers, the performance of teachers' students, as defined in §150.1001(f)(2) of this title, shall count for at least 20% of a teacher's summative score.

(g) [(f)] Each teacher shall be evaluated on the performance of teachers' students using one of the terms from the following categories:

- (1) distinguished or well above expectations;
- (2) accomplished or above expectations;
- (3) proficient or at expectations;
- (4) developing or below expectations; or
- (5) improvement needed or well below expectations.

*§150.1004. Teacher Response and Appeals.*

(a) A teacher may submit a written response or rebuttal at the following times:

(1) for Domain I or Alternate Domain I, Domain II, and Domain III [~~Domains I, II, and III~~], as identified in §150.1002(a) of this title (relating to Assessment of Teacher Performance), after receiving a written observation summary or any other written documentation related to the ratings of those three domains; or

(2) for Domain IV, as identified in §150.1002(a) of this title, and for the performance of teachers' students, as defined in §150.1001(f)(2) of this title (relating to General Provisions, after receiving a written summative annual appraisal report.

(b) Any written response or rebuttal must be submitted within 10 working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation associated with the teacher's appraisal. A teacher may not submit a written response or rebuttal to a written summative annual appraisal report for the ratings in Domain I or Alternate Domain I, Domain II, and Domain III [~~Domains I, II, and III~~], as identified in §150.1002(a) of this title, if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to submit a written response or rebuttal.

(c) A teacher may request a second appraisal by another certified appraiser at the following times:

(1) for Domain I or Alternate Domain I, Domain II, and Domain III [~~Domains I, II, and III~~], as identified in §150.1002(a) of this title, after receiving a written observation summary with which the teacher disagrees; or

(2) for Domain IV, as identified in §150.1002(a) of this title, and for the performance of teachers' students, as defined in §150.1001(f)(2) of this title, after receiving a written summative annual appraisal report with which the teacher disagrees.

(d) The second appraisal must be requested within 10 working days of receiving a written observation summary or a written summative annual appraisal report. A teacher may not request a second appraisal by another certified appraiser in response to a written sum-

mative annual appraisal report for the ratings of dimensions in Domain I or Alternate Domain I, Domain II, and Domain III [~~Domains I, II, and III~~], as identified in §150.1002(a) of this title, if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to request a second appraisal.

(e) A teacher may be given advance notice of the date or time of a second appraisal, but advance notice is not required.

(f) The second appraiser shall make observations and walk-throughs as necessary to evaluate the dimensions in Domain I or Alternate Domain I, Domain II, and Domain III [~~Domains I-III~~] or shall review the Goal-Setting and Professional Development Plan for evidence of goal attainment and professional development activities, when applicable. Cumulative data may also be used by the second appraiser to evaluate other dimensions.

(g) Each school district shall adopt written procedures for determining the selection of second appraisers. These procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed.

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 31, 2023.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: September 10, 2023

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



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

##### SUBCHAPTER BB. BATTERY SALES FEE

###### 34 TAC §3.711

The Comptroller of Public Accounts proposes amendments to rule §3.711, concerning battery sales fee collection and reporting requirements. The comptroller amends this section to implement Senate Bill 477, 87th Legislature, 2021, which requires marketplace providers to collect the applicable fees related to the sale of lead-acid batteries and to improve readability throughout the section.

The comptroller amends subsection (a) to add paragraphs (3), (4) and (5) to define the terms "marketplace," "marketplace provider," and "marketplace seller," respectively, as those terms are defined in Tax Code, §151.0242(a) but limits the terms to the sale of lead-acid batteries. The comptroller renumbers the subsequent paragraph.

The comptroller amends the title of subsection (b) to reflect that the subsection applies to the collection of the battery sales fee and not the remittance of the fee, which is addressed in subsection (e). The comptroller amends paragraph (1) by adding that, effective July 1, 2022, marketplace providers selling lead-acid

batteries are required to collect the battery sales fee. The comptroller also amends paragraph (1) to require the collection of the battery sales fee only on the sale of batteries not for resale, as required under Health and Safety Code, §361.138. The comptroller reorganizes the fee information from paragraph (1) into subparagraphs (A), (B) and (C). The comptroller amends paragraph (2) to add marketplace provider to the provision that allows the comptroller to collect the fee directly from the purchaser in instances where a dealer fails to collect the fee. The comptroller amends paragraph (5) to prohibit a marketplace provider from advertising that a refund is available for any portion of the fee.

The comptroller adds the term marketplace provider to the provisions in subsection (c) (1) and (2), and in subsection (d) to require marketplace providers to follow the same reporting requirements that dealers must follow.

The comptroller amends subsection (e) regarding the remittance of the fee to remove the term "person" and instead use the term "dealer or marketplace provider" in paragraph (1) and to add the term "marketplace provider" in paragraph (2).

The comptroller amends subsection (f) to allow a "marketplace provider" who collects the battery sales fee to retain the applicable discount on each fee collected.

The comptroller amends subsection (g) to remove the term "person" and include the terms "dealer" and "marketplace provider" to allow the comptroller or an authorized representative to inspect the records or equipment of a dealer or marketplace provider.

The comptroller amends subsection (h)(7) to apply the battery sales fee exemptions to certain sales made by a marketplace provider.

The comptroller amends subsection (j) to remove the term "person" and instead use the terms "dealer" and "marketplace provider" to assess the applicable penalties to both for failure to file a battery sales fee report in a timely manner.

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

Mr. Reynolds also has determined that the proposed amended rule would benefit the public by conforming the rule to current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no significant anticipated economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: [tp.rule.comments@cpa.texas.gov](mailto:tp.rule.comments@cpa.texas.gov). The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The comptroller proposes the amendments under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) and

§111.0022 (Application to Other Laws Administered by Comptroller), which provide the comptroller with authority to prescribe, adopt, and enforce rules relating to the administration and enforcement provisions of Tax Code, Title 2, and taxes, fees, or other charges which the comptroller administers under other law.

The amendments to this section implement Health & Safety Code, §361.138 (Fee on the sale of batteries).

§3.711. *Battery Sales Fee Collection and Reporting Requirements.*

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

(1) Dealer--A wholesaler, retailer, or any other person who sells or offers to sell lead-acid batteries.

(2) Lead-acid battery--Any battery, new or used, which contains lead and sulfuric acid, in liquid or gel form.

(3) Marketplace--A physical or electronic medium through which persons other than the owner or operator of the medium make sales of lead-acid batteries. The term includes a store, Internet website, software application, or catalog.

(4) Marketplace provider--A person who owns or operates a marketplace and directly or indirectly processes sales of or payments for lead-acid batteries for marketplace sellers.

(5) Marketplace seller--A seller, other than the marketplace provider, who makes a sale of a lead-acid battery through a marketplace.

(6) [(3)] Sale for resale--A sale of a lead-acid battery to a purchaser for the purpose of reselling the battery in the normal course of business in the form or condition in which it is acquired (i.e., as a separate item). A sale of a battery that is attached to or becomes an integral part of a vehicle, boat, or other equipment that is being sold, rented, or leased is not a sale for resale. The battery sales fee is due on the sale prior to the battery becoming a part of this equipment.

(b) Collection [and remittance] of the fee.

(1) Except as provided in subsection (h) of this section, a dealer, and effective July 1, 2022, a marketplace provider, must collect the fee on each sale of a lead-acid battery that is not for resale.

(A) For each lead-acid battery with a capacity of less than 12 volts, the fee is \$2.00.

(B) For each lead-acid battery with a capacity of 12 or more volts, the fee is \$3.00.

(C) A fee shall not be charged, collected, or allowed as an offset on a battery taken as a trade-in.

(2) If a dealer or a marketplace provider fails to collect the fee required in paragraph (1) of this subsection, the comptroller may collect the fee from the purchaser.

(3) The fee is not due on the sale of a vehicle, boat, or other equipment that has a battery as an integral part of it.

(4) The amount of the fee due must be separately stated on the invoice, bill, or contract to the customer and shall be identified as the Texas battery sales fee.

(5) A dealer or a marketplace provider may not advertise, make public, indicate, or imply that the dealer or marketplace provider will absorb, assume, or refund any portion of the fee.

(c) Due date and reporting requirements.

(1) Monthly filing. The battery sales fee is due and payable on or before the 20th day of the month following the end of each calendar month. Returns must be filed on a monthly basis unless a dealer or a marketplace provider qualifies as a quarterly filer under paragraph (2) of this subsection.

(2) Quarterly filing. A dealer or a marketplace provider who owes an average, as computed for the year, of less than \$50 for a calendar month or less than \$150 for a calendar quarter is required to file a return and remit the collected fees on or before the 20th day of the month following the end of the calendar quarter. The comptroller will notify a dealer or marketplace provider when the report and payment may be submitted quarterly.

(d) Report forms. The battery sales fee is to be reported on the Texas battery sales fee report form as prescribed by the comptroller. The fact that the dealer or a marketplace provider does not receive the form or does not receive the correct form from the comptroller for the filing of the return does not relieve the dealer or marketplace provider of the responsibility of filing a return and remitting the fee.

(e) Remittance of the fee.

(1) On or before the 20th day of the month following each reporting period, every dealer or marketplace provider [person] required to collect the fee shall file a consolidated return for all businesses operating under the same taxpayer number and remit the total fee due.

(2) The returns must be signed by the dealer or marketplace provider required to file the return or by the dealer's or marketplace provider's duly authorized agent.

(f) Discount. A dealer or marketplace provider who is required to collect the battery sales fee may retain \$.025 from each fee collected [sale made].

(g) Records required.

(1) Invoices or other records must be kept for at least four years after the date on which the invoices or records are prepared.

(2) The comptroller or an authorized representative has the right to examine any records or equipment of any dealer or marketplace provider [person] liable for the fee [in order] to verify the accuracy of any return made or to determine the fee liability in the event no return is filed.

(h) Exemptions.

(1) Sales for resale are not subject to the fee.

(2) The sale of a battery that under the sales contract is shipped to a point outside Texas is not subject to the fee imposed by this section if the shipment is made by the seller by means of:

(A) the facilities of the seller;

(B) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(C) delivery by the seller to a forwarding agent for shipment to a location in another state of the United States or its territories or possessions.

(3) Exports beyond the territorial limits of the United States are not subject to the fee. Proof of export may be shown only by:

(A) a copy of a bill of lading issued by a licensed and certificated carrier showing the seller as consignor, the buyer or purchaser as consignee, and a delivery point outside the territorial limits of the United States;

(B) documentation provided by a licensed United States customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C) formal entry documents from the country of destination showing that the battery was imported into a country other than the United States. For the country of Mexico, the formal entry document is the pedimento de importaciones document with a computerized, certified number issued by Mexican customs officials;

(D) a copy of the original airway, ocean, or railroad bill of lading issued by a licensed and certificated carrier which describes the items being exported and a copy of the freight forwarder's receipt if the freight forwarder takes possession of the property in Texas; or

(E) a purchaser's blanket maquiladora exemption certificate and a copy of the purchaser's maquiladora export permit provided to the seller as required under §3.358 of this title (relating to Maquiladoras).

(4) There is no exemption provided for any organization or governmental agency, except as provided in paragraph (5) of this subsection.

(5) The United States, its instrumentalities, and agencies are exempted from the battery sales fee.

(6) Sales for disposal or reclamation are not subject to the fee.

(7) The battery sales fee does not apply to a sale of a battery made by a dealer or a marketplace provider when it meets all of the following criteria:

(A) the ampere-hour rating of the battery is less than 10 ampere-hours;

(B) the sum of the dimensions of the battery (height, width, and length) is less than 15 inches; and

(C) the battery is sealed so that no access to the interior of the battery is possible without destroying the battery.

(i) Replacements covered by a warranty or service contract.

(1) The replacement of a battery under a manufacturer's warranty, without an additional charge to the purchaser, is not the sale of a battery to the purchaser. This replacement, therefore, is not subject to the fee. If there is a charge to the customer for the replacement (such as a pro rata warranty adjustment), then the customer must pay the battery sales fee.

(2) The replacement of a battery under an extended warranty or a service contract, for which the customer pays an extra charge, depends on the terms of the contract.

(A) If the replacement is free of charge to the customer, the dealer is responsible for paying the fee.

(B) If there is a charge to the customer for the replacement, the customer must pay the fee.

(j) Penalty. A dealer or marketplace provider [person] who does not file a report as provided by this section, or who possesses a fee collected or payable under this section and does not timely remit the fee to the comptroller, shall pay a penalty of 5.0% of the amount of the fee due and payable. If the dealer or marketplace provider [person] does not file the report or pay the fee before the 30th day after the date on which the fee or report is due, the dealer or marketplace provider [person] shall pay a penalty of an additional 5.0% of the amount of the fee due and payable.

(k) Interest. Interest accrues on the unpaid fee due beginning 60 days after the due date and ends the day on which the fee is paid.

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 27, 2023.

TRD-202302676

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Earliest possible date of adoption: September 10, 2023

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



## PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

### CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

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

##### 34 TAC §41.53

The Teacher Retirement System of Texas (TRS) proposes new §41.53, relating to Special Transitional Plan, under Subchapter C (relating to Texas School Employees Group Health (TRS-ActiveCare)) under Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code.

##### BACKGROUND AND PURPOSE

TRS-ActiveCare's primary health plan operates on a plan year that begins on September 1 and ends on the following August 31. In order to elect to participate in that plan, a participating entity must provide notice by December 31 of the year immediately preceding the next September 1 as of which it intends to enter the plan. See Insurance Code §1579.155 and corresponding TRS Rule 41.30. This creates difficulties for eligible participating entities to transition into TRS-ActiveCare when those entities currently offer a health plan that operates on a plan year that is different. Such entities may find it difficult or too costly to terminate their own plans in the middle of their plan year to transition into TRS-ActiveCare.

Proposed new §41.53, relating to Special Transitional Plan, exercises the Board's authority to create new plans under TRS-ActiveCare by creating a "Special Transitional Plan" that will provide an option to facilitate these entities' transition into TRS-ActiveCare. It will also allow such participating entities to provide notice by December 31 to enter TRS-ActiveCare's traditional plan as of the following September 1. In the interim, the participating entity will participate in the Special Transitional Plan.

##### FISCAL NOTE

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

## PUBLIC COST/BENEFIT

For each year of the first five years the proposed new rule will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the new rule will be to allow participating entities that would have otherwise found it difficult or impossible to transition to TRS-ActiveCare to potentially realize substantial savings on their employee health care costs by providing a transitional avenue to enter TRS-ActiveCare. Mr. Green has also determined that there is no probable economic cost to entities or persons who may take advantage of the proposed new rule.

## ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

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

## LOCAL EMPLOYMENT IMPACT STATEMENT

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

## GOVERNMENT GROWTH IMPACT STATEMENT

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

This proposal creates a new regulation. Proposed §41.53 is a new rule through which TRS, as trustee of the Texas School Employees Uniform Group Health Coverage Program created under Chapter 1579 of the Insurance Code, will establish a new plan of group coverage under Section 1579.101.

## TAKINGS IMPACT ASSESSMENT

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

## COSTS TO REGULATED PERSONS

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

## COMMENTS

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

## STATUTORY AUTHORITY

This new §41.53 is proposed under the authority of Chapter 1579, Insurance Code, which establishes the Texas School Employees Uniform Group Health Coverage (TRS-ActiveCare);

Insurance Code §1579.052, which allows the trustee to adopt rules relating to, and to administer, TRS-ActiveCare as considered necessary by the trustee and to take the actions it considers necessary to devise, implement, and administer TRS-ActiveCare; Insurance Code §1579.101, which allows the trustee by rule to establish plans of group coverages for employees participating in TRS-ActiveCare and their dependents; Chapter 825, Texas Government Code, which governs the administration of TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

## CROSS-REFERENCE TO STATUTE

The proposed new rule affects Insurance Code §1579.155, concerning Program Participation: Election.

### §41.53. Special Transitional Plan.

(a) Special Transitional Plan. In order to transition an entity into the TRS-ActiveCare plan year, TRS may establish a short duration Special Transitional Plan for an otherwise eligible entity that has an existing group health plan year that does not terminate the day preceding the beginning of the regular TRS-ActiveCare plan year. The purpose of the Special Transitional Plan is to assist an entity to transition into the TRS-ActiveCare plan year by covering the gap period between the end of the entity's existing coverage and the beginning of the regular TRS-ActiveCare plan year coverage.

(b) Notice of election and required information. An entity applying to a Special Transitional Plan ("applicant entity") must:

(1) Submit to TRS the information required under §41.45 of this title (relating to Required Information from School Districts, Other Educational Districts, Charter Schools, and Regional Education Service Centers Electing to Participate in TRS-ActiveCare) at least 180 days in advance of the first day of the month in which the Special Transitional Plan is to be effective; and

(2) Submit an application to the Special Transitional Plan and a notice of election to participate in the regular TRS-ActiveCare plan under §41.30 of this title (relating to Participation in the Health Benefits Program under the Texas School Employees Uniform Group Health Coverage Act by School Districts, Other Educational Districts, Charter Schools, and Regional Education Service Centers) at the same time. Such application and election to participate must be submitted no later than 90 days in advance of the first day of the month in which the Special Transitional Plan is to be effective and never later than December 31 of the year before the plan year in which the election to participate in TRS-ActiveCare is to be made effective.

(c) Manner, form, and effect of election.

(1) Application for the Special Transitional Plan. All applications for a Special Transitional Plan under this section shall be in writing, in a form prescribed by TRS.

(2) Incomplete or untimely applications. An incomplete or untimely filed application to a Special Transitional Plan will be denied.

(3) Duration. A Special Transitional Plan issued by TRS under this section shall have a duration of less than a year, shall begin on the TRS approved date, and shall end on the day before the regular TRS-ActiveCare plan year begins.

(d) Coverage. The Special Transitional Plan shall have the same benefits and coverage as one or more of the TRS-ActiveCare plan options being offered to similar participating entities in the applicant entity's region on the day that the applicant entity begins the Special Transitional Plan, except for any fully insured HMO plan options. Such terms shall include those of §41.33 of this title (relating to

Definitions Applicable to the Texas School Employees Uniform Group Health Coverage Program) through §41.40 of this title (relating to Coverage Continuation While on Leave Without Pay), except as modified by TRS to adjust them to the limited-time nature and effective dates of the Special Transitional Plan.

(e) Eligibility. Individuals shall be eligible for the Special Transitional Plan under the same eligibility requirements as the TRS-ActiveCare Plan, as described in §41.34 of this title (relating to Eligibility for Coverage under the Texas School Employees Uniform Group Health Coverage Program).

(f) Rates and Premiums. The Special Transitional Plan may have rates that differ from the rates that apply to other similar entities participating in the TRS-ActiveCare Plan in the applicant entity's region. The applicant entity shall pay its premiums for the Special Transitional Plan in the same way that participating entities pay the premiums for the TRS-ActiveCare Plan under §41.41 of this title (relating to Premium Payments) and be subject to the same corrective actions.

(g) Enrollment periods. The applicant entity must participate in two different open enrollments after the date of their application: one enrollment period for the Special Transitional Plan, which will begin at least 31 days prior to the beginning of the Special Transitional Plan; and another enrollment period for the regular TRS-ActiveCare Plan, in accordance with §41.36 of this title (relating to Enrollment Periods for TRS-ActiveCare).

(h) Appeals. The appeals processes for claims, benefits, and eligibility under the Special Transitional Plan shall be the same as those that apply to the regular TRS-ActiveCare Plan.

(i) Expulsion. The Special Transitional Plan shall follow the same expulsion process as the regular TRS-ActiveCare Plan, as described in §41.52 of this title (relating to Expulsion from TRS-ActiveCare).

(j) Responsibility for notices, disclosures, and administrative adjustments. It is the applicant entity's responsibility to give to its employees, eligible dependents, agents, contractors, and administrators all necessary notices and disclosures about any short-term and long-term implications of joining TRS-ActiveCare on a different date than the applicant entity's plan year through the Special Transitional Plan, and to conduct any necessary administrative adjustments.

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 28, 2023.

TRD-202302696

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: September 10, 2023

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



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

### **PART 5. TEXAS BOARD OF PARDONS AND PAROLES**

## **CHAPTER 146. REVOCATION OF PAROLE OR MANDATORY SUPERVISION**

### **37 TAC §146.6, §146.8**

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 146, Revocation of Parole or Mandatory Supervision. The amendments are proposed to reflect the changes made by the 88th Legislature in SB 374 to Government Code, Section 508.282(a), regarding the time for the parole panel, board designee, or department to dispose of the charges against an inmate or person described by Government Code, Section 508.281(a), and to also provide edits for uniformity and consistency throughout the rules.

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

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

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

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

The amended rules are adopted under Texas Government Code Sections 508.036(b), 508.0441(a)(5), 508.045(c), 508.281, 508.2811, and 508.283. Section 508.036(b) requires the board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441(a)(5) vests the Board with the authority to determine the continuation, modification, and revocation of parole or mandatory supervision. Section 508.045(c) provides parole panels with the authority to conduct parole revocation and mandatory supervision revocation hearings; and to grant, deny, revoke parole or mandatory supervision. Sections 508.281 and 508.2811 relate to hearings to determine violations of the releasee's parole or mandatory supervision. Sections 508.282 and 508.283 concern deadlines and sanctions for parole revocation and mandatory supervision revocation hearings.

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

§146.6. *Scheduling of Preliminary Hearing.*

(a) Upon request, the Board or the Board's scheduling staff shall schedule a preliminary hearing unless:

(1) more than fourteen calendar days have elapsed from the time the warrant is executed; or

(2) information has not been presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(A) notice of the right to a preliminary hearing and that its purpose is to determine whether there is probable cause or reasonable belief to believe the releasee has committed a parole violation;

(B) written notice of the allegations of parole violation against the releasee;

(C) notice of the right to full disclosure of the evidence;

(D) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(E) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(F) notice that the case will be heard by a parole panel or designee of the Board;

(G) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(H) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(b) For the purposes of subsection (a)(1) of this section, a warrant is executed if:

(1) the releasee is arrested only on a charge that the releasee has committed a violation of a condition of parole or mandatory supervision and is not charged before the [44] 91st day with the commission of an offense; or

(2) the sheriff having custody of the releasee notifies the division that the releasee has discharged the sentence or that the prosecutor has dismissed the charge under Article 32.02, Code of Criminal Procedure.

(c) If the Board or the Board's scheduling staff receives a request for a preliminary hearing later than the fourteenth calendar day following the provisions described in subsection (a)(1) of this section, the Board or the Board's scheduling staff shall require the requestor to provide an explanation of the delay.

(d) Subsection (a)(1) of this section does not apply when a releasee is:

(1) transferred under Section 508.284, Government Code to a correctional facility operated by or under contract with the TDCJ [department]; or

(2) returned to custody from another state, a federal correctional institution, or a medical or psychiatric facility.

(e) In cases under subsection (d) of this section, a preliminary hearing shall be held within a reasonable time.

§146.8. *Scheduling of Revocation Hearings.*

(a) Upon request, the Board or the Board's scheduling staff shall schedule a revocation hearing unless information has not been

presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(1) notice of the right to a revocation hearing and that its purpose is to make a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation of parole;

(2) written notice of the allegations of parole violation against the releasee;

(3) notice of the right to full disclosure of the evidence against the releasee;

(4) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(5) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(6) notice that releasee has an opportunity to be heard and to show that he did not violate the conditions, or if the releasee did, that circumstances in mitigation suggest that the violation does not warrant revocation;

(7) notice that the case will be heard by a parole panel or designee of the Board;

(8) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(9) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(b) If the releasee is not entitled to a preliminary hearing and requests a revocation hearing, the Board or the Board's scheduling staff shall schedule a revocation hearing unless:

(1) more than fourteen calendar days have elapsed from the time that the warrant is executed; or

(2) information has not been presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(A) notice of the right to a revocation hearing and that its purpose is to make a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation of parole;

(B) written notice of the claimed allegations of parole violation against the releasee;

(C) notice of the right to full disclosure of the evidence;

(D) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(E) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(F) notice that releasee has an opportunity to be heard and to show that he did not violate the conditions, or if the releasee did, that circumstances in mitigation suggest that the violation does not warrant revocation;

(G) notice that the case will be heard by a parole panel or designee of the Board;



(H) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(I) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(c) If the Board or the Board's scheduling staff receives a request for a revocation hearing later than the fourteenth calendar day following the provisions described in subsection (b)(1) of this section, the Board or the Board's scheduling staff shall require the requestor to provide an explanation of the delay.

(d) Subsection (b)(1) of this section does not apply when a releasee is:

(1) transferred under Section 508.284, Government Code to a correctional facility operated by or under contract with the department; or

(2) returned to custody from another state, a federal correctional institution, or a medical or psychiatric facility.

(e) For the purposes of subsection (b)(1) of this section, a warrant is executed if:

(1) the releasee is arrested only on a charge that the releasee has committed a violation of a condition of parole or mandatory super-

vision and is not charged before the [41] 91st day with the commission of an offense; or

(2) the sheriff having custody of the releasee notifies the division that the releasee has discharged the sentence or that the prosecutor has dismissed the charge under Article 32.02, Code of Criminal Procedure.

(f) In cases under subsection (d) of this section, a revocation hearing shall be held within a reasonable time.

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 28, 2023.

TRD-202302691

Bettie Wells

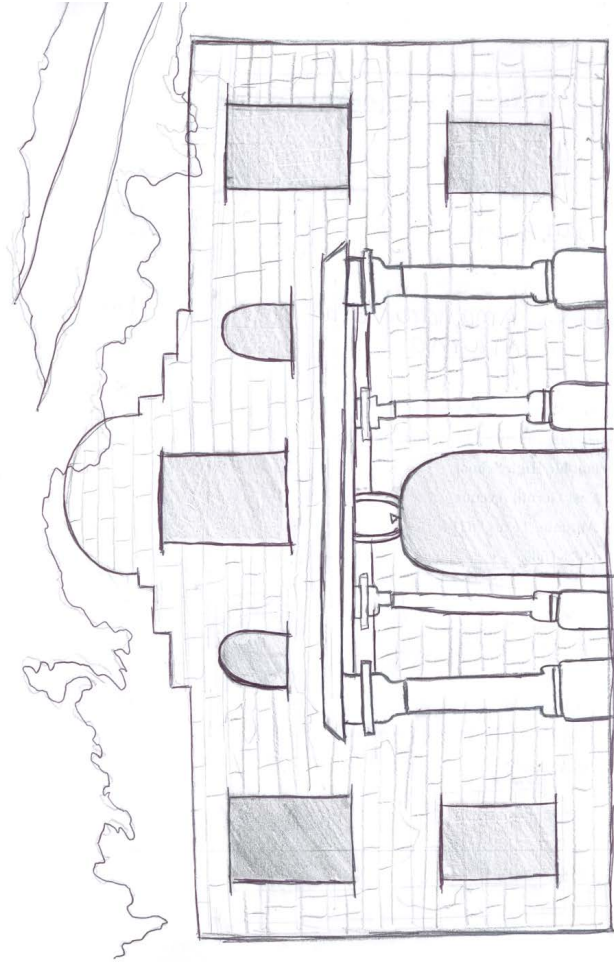
General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: September 10, 2023

For further information, please call: (512) 406-5478





# 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 1. ADMINISTRATION

### PART 12. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

#### CHAPTER 254. REGIONAL POISON CONTROL CENTERS

##### 1 TAC §254.2

The Commission on State Emergency Communications withdraws proposed repeal of §254.2, which appeared in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3015).

Filed with the Office of the Secretary of State on July 27, 2023.

TRD-202302671

Patrick Tyler  
General Counsel

Commission on State Emergency Communications

Effective date: July 27, 2023

For further information, please call: (512) 305-6915



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 5. TEXAS BOARD OF PARDONS AND PAROLES

#### CHAPTER 147. HEARINGS

##### SUBCHAPTER A. GENERAL RULES FOR HEARINGS

##### 37 TAC §§147.1, 147.3, 147.5, 147.6

The Texas Board of Pardons and Paroles withdraws the proposed amendment to §§147.1, 147.3, 147.5, and 147.6, which appeared in the February 3, 2023, issue of the *Texas Register* (48 TexReg 497).

Filed with the Office of the Secretary of State on July 25, 2023.

TRD-202302648

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective date: July 25, 2023

For further information, please call: (512) 406-5478



##### SUBCHAPTER B. EVIDENCE

##### 37 TAC §147.24, §147.26

The Texas Board of Pardons and Paroles withdraws the proposed amendment to §147.24 and §147.26, which appeared in the February 3, 2023, issue of the *Texas Register* (48 TexReg 499).

Filed with the Office of the Secretary of State on July 25, 2023.

TRD-202302649

Bettie Wells

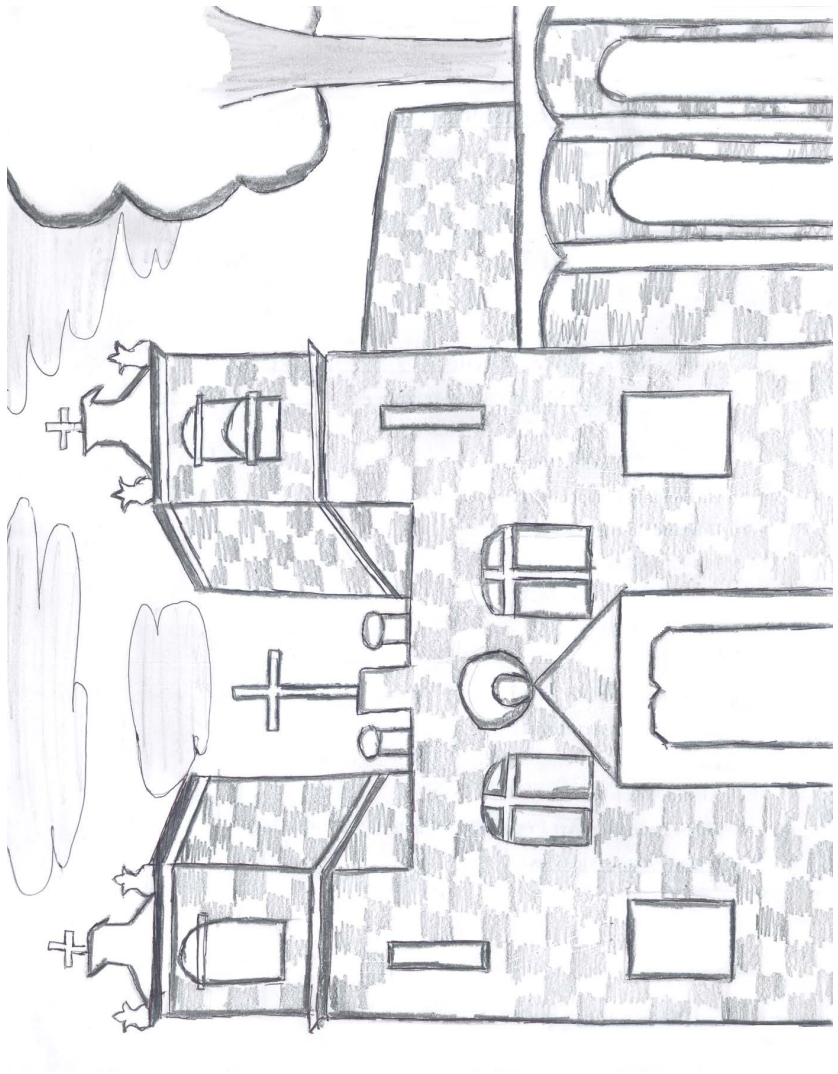
General Counsel

Texas Board of Pardons and Paroles

Effective date: July 25, 2023

For further information, please call: (512) 406-5478





# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

### PART 12. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

#### CHAPTER 252. ADMINISTRATION

##### 1 TAC §252.8

The Commission on State Emergency Communications (CSEC) adopts amendments to §252.8, concerning the agency's Emergency Communications Advisory Committee (ECAC), without changes to the proposed text as published for comment in the June 16, 2023, issue of the *Texas Register* (48 TexReg 3013). The adopted rule will not be republished.

##### REASONED JUSTIFICATION

CSEC adopts amendments to §252.8 (Title 1, Part 12, Chapter 252 of the Texas Administrative Code) to extend the date on which ECAC is abolished from September 1, 2023, to September 1, 2029 - date corresponds to CSEC's sunset date. ECAC continues to serve a vital advisory role for CSEC regarding the development, implementation, and transition of Texas to providing Next Generation 9-1-1 (NG9-1-1) service, including fostering Texas 9-1-1 Entity collaboration, collective decision-making, and assurances that the requirements of the entities are met.

##### PUBLIC COMMENT AND AGENCY RESPONSE

To date no comments were received regarding the proposed amendment.

##### STATEMENT OF AUTHORITY

The adopted amendment affects Texas Health and Safety Code §771.051(a)(1), (2), (4), (7), (8), (9), (10), §771.0511, and §771.052; and Texas Government Code Chapter 2110.

No other statutes, articles, or codes are affected by the adopted amendment.

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 27, 2023.

TRD-202302673

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2023

Proposal publication date: June 16, 2023

For further information, please call: (512) 305-6915



## TITLE 10. COMMUNITY DEVELOPMENT

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

#### CHAPTER 1. ADMINISTRATION

##### SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

##### 10 TAC §1.10

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC §1.10, Public Comment Procedures, without changes to the proposed text as published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2801). The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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

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

1. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing the security of personal information.

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

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

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

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

6. The repeal will repeal an existing regulation, but is associated with the simultaneous readoption making changes to the existing rule for the security of personal information.

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

8. The repeal will not negatively affect this state's economy.

##### b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REG-

ULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

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

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

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

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

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

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

PUBLIC COMMENT. The public comment period was open from June 2, 2023, to July 3, 2023, and no comment was received. The repeal is being adopted with no changes.

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

Except as described herein the repealed sections affect no other code, article, or statute.

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

Filed with the Office of the Secretary of State on July 28, 2023.

TRD-202302689

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: August 17, 2023

Proposal publication date: June 2, 2023

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



**10 TAC §1.10**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC §1.10, Public Comment Procedures with changes to the proposed text as published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2802). The rule

will be republished. The purpose of the rule is to govern how public comment can be made at Governing Board meetings.

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

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

Bobby Wilkinson, Executive Director, has determined that, for the first five years the rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rule governing the security of personal information.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.

3. The new rule does not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

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

6. The rule will not limit, expand, or repeal an existing regulation, but merely revises a rule.

7. The new rule does increase or decrease the number of individuals to whom this rule applies.

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

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

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule provides specific detail on how public comment can be provided at meetings of the Department's governing board. Other than in the case of a small or micro-business that participates at a board meeting, no small or micro-businesses are subject to the rule. If a small or micro-business does participate at a board meeting, merely direct how their comment can be made.

3. The Department has determined that because this rule relates only to a revision to a rule, and the rule changes do not specifically relate to geographic location or business size, there will be no economic effect on small or micro-businesses or rural communities.

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

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

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first

five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates only to requirements of existing and future Department Contractors and echoes state and federal regulations already in effect.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by the rule..." Considering that the rule is applicable to all commenters at a meeting, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new rule will be improved clarity on the process for making comment at a board meeting. There is no economic cost to any individuals required to comply with the new rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments as the implementation of this rule generates no fees, nor requires any cost.

PUBLIC COMMENT. The public comment period was open from June 2, 2023 to July 3, 2023 and no comment was received.

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

#### §1.10. Public Comment Procedures.

(a) Purpose. The purpose of this section is to establish procedures for hearing public comment at Governing Board meetings open to the public held by the Texas Department of Housing and Community Affairs in accordance with §2306.032(f) and §2306.066(d) of the Tex. Gov't Code.

(b) Procedures for taking public comment.

(1) At each meeting open to the public the Governing Board (Board) shall provide opportunity for members of the public to make:

(A) General public comment after the Board has taken action on all posted agenda items on which it intends to take action, general public comment on matters of relevance to the Department's business, or requests that the Board place specific items on future agendas for consideration. It is the prerogative of the Board Chair to place reasonable limits on public comment. Handouts of printed materials are permitted only as provided for in paragraph (6) of this subsection; and

(B) Specific public comment on each posted agenda item after the presentation made by Department staff and motions made by the Board. For purposes of this rule, the Board may consider the staff's presentation to be staff's written presentation in the Board's meeting book posted on the Department's website, or additional printed materials only as provided for in paragraph (6) of this subsection.

(2) The opportunity for general public comment under paragraph (1)(A) of this subsection may not be used to advocate for or against any specific action relating to any posted item or for or against any pending application. The opportunity for any such testimony is to be limited to the appointed time when action on such matter

is requested to be formally considered as a posted agenda item as described in paragraph (1)(B) of this subsection.

(3) At the time general or specific public comment is taken, speakers should be prepared to come promptly to the podium or other place designated for speakers. They may, if they wish, agree among themselves on an order in which they will speak, or this may be directed by the Board Chair. If a large number of speakers wish to testify, the Chair may, in his or her reasonable discretion, establish appropriate limits on the total amount of time to be devoted to testimony on any given item or items. As each individual speaker begins his or her testimony, they must state on the record their name and on whose behalf they are speaking, and sign in on a sheet provided by staff to indicate the correct spelling of their name and on whose behalf they are speaking.

(4) Individuals present at the meeting, who wish to register their position for or against a posted agenda item, but do not wish to speak, may do so by submitting a comment registration form with the secretary of the meeting, or another person designated by the Board Chair. The comment registration form must state the commenter's name, whom they represent, the action item to which their comment relates, their position, and must be signed by the commenter. At the end of the public comment on the item the Board Chair will have registered positions for and against read into the record. It is the Board Chair's discretion to determine if similar comments submitted are aggregated and reported as a total number providing their position, as opposed to reading all names into the record.

(5) Additional limits on public comment.

(A) The Board Chair, in her/his sole discretion, may additionally limit the number and length of presentations of public comment, both general and specific, at any time during a meeting based on a consideration of:

- (i) the number of persons wishing to give public comment;
- (ii) the number of agenda items to be heard;
- (iii) the time available for the meeting; and
- (iv) the risk of losing a quorum of Board members.

(B) If the Board Chair limits presentations, she or he will not limit them in a manner that inappropriately favors a particular point of view.

(C) The Board Chair may, in her or his reasonable discretion, grant deference to elected officials and other persons who have traveled great distances. Deference to elected officials may include, but is not limited to reading letters from elected officials to the Board into the record.

(6) Presenting printed materials. An individual providing testimony to the Board may provide printed materials only if they are provided as outlined in subparagraphs (A) - (C) of this paragraph:

(A) In order to ensure that members of the Board and the public are given an opportunity to review any such materials, they must be provided to the Department staff not less than five business days prior to the meeting at which they are to be. This is to enable staff to post them on the Department's website not later than the third day before the date of the meeting, as provided for in Tex. Gov't Code §2306.032(c). They must be made available in Adobe Acrobat (pdf) electronic format;

(B) Department staff will post such materials to the Department's website no later than the third day before the meeting at which they are to be used;

(C) In exceptional circumstances the Board Chair may, in her/his sole discretion, and only after giving Board members an opportunity to object, allow materials to be provided at a meeting in hard copy format provided:

(i) they are delivered to staff prior to the start of the meeting so that staff may log in the materials and the Board Chair may review for acceptance under this subsection. Materials may not be handed directly by the public to a Board member on the dais;

(ii) they are not so voluminous as to cause inordinate delay while members of the Board and public review them;

(iii) they are provided in hard copy format to all members of the public in attendance;

(iv) they are also provided to staff in Adobe Acrobat (pdf) format for inclusion in the electronic records of Board materials available to the public via the Department's website; and

(v) if the materials involve large size photos, maps, charts, or other information to be displayed for the Board, an identical copy must be displayed to the public attendees.

(D) Persons seeking allowance of written materials under paragraph (6)(C) of this subsection should be aware that their proffered materials may be disallowed, and they should always be prepared to proceed with a verbal presentation within the time constraints for public speaking at Board meetings.

(E) If materials submitted relate to a competitive Application under any Department program, including Chapters 11 and 13 of this title (relating to Qualified Allocation Plan (QAP) and Multifamily Direct Loan Rule, respectively), such materials provided under either subparagraphs (A) or (C) of this paragraph may be prohibited from presentation to the Board under applicable rules or statute.

(c) To the extent that subsection (b) of this section, or the Board Chair, place limitations on the amount of time that a member of the public may address the Board, a member of the public who addresses the Board through an interpreter will be given at least twice the amount of time as a member of the public who does not require the assistance of an interpreter in order to ensure that non-English speakers receive the same opportunity to address the Board.

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 28, 2023.

TRD-202302690

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: August 17, 2023

Proposal publication date: June 2, 2023

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



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

## SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §22.6

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter A, §22.6, General Provisions without changes to the proposed text as published in the April 28, 2023, issue of the *Texas Register* (48 TexReg 2175). The rules will not be republished.

This adopted amendment provides the Coordinating Board the flexibility to respond to unforeseen exigent circumstances that may otherwise significantly impact students' ability to meet the financial aid priority deadline. Texas Education Code, Section 56.008, requires the Coordinating Board to establish a rule outlining a uniform priority application deadline for applications for financial assistance for an academic year and to consult financial aid personnel at institutions in doing so. Texas Administrative Code, Section 22.6, fulfills this requirement, though it currently does not provide the flexibility for the Coordinating Board to respond to unforeseen exigent circumstances. The adopted amendment provides that flexibility in a manner that continues to require consultation with financial aid personnel.

The following comments were received regarding adoption of the amendments.

Comments: Two comments were received in support of the amendments from the Austin Chamber of Commerce and the Texas College Access Network. The comments did not propose any changes to the amendments.

Response: The Coordinating Board appreciates and agrees with the comments supporting adoption of the revisions.

The amendment is adopted under Texas Education Code, Section 56.008, which provides the Coordinating Board with the authority to establish a rule outlining a uniform priority application deadline for applications for financial assistance for an academic year.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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 28, 2023.

TRD-202302692

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: August 17, 2023

Proposal publication date: April 28, 2023

For further information, please call: (512) 427-6365



## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 100. CHARTERS

#### SUBCHAPTER AA. COMMISSIONER'S

#### RULES CONCERNING OPEN-ENROLLMENT

#### CHARTER SCHOOLS

#### DIVISION 1. GENERAL PROVISIONS



## 19 TAC §100.1019

The Texas Education Agency adopts new §100.1019, concerning application to adult high school charters. The amendment is adopted without changes to the proposed text as published in the May 19, 2023 issue of the *Texas Register* (48 TexReg 2556) and will not be republished. The adopted new rule implements Senate Bill (SB) 1615, 87th Texas Legislature, Regular Session, 2021, by providing requirements for the administration of the adult high school open-enrollment charter application process.

**REASONED JUSTIFICATION:** Adopted new §100.1019 implements SB 1615, 87th Texas Legislature, Regular Session, 2021, which added Texas Education Code (TEC), §12.265, regarding adult high school charters. The new rule specifies which portions of the open-enrollment charter application process codified in 19 TAC §100.1002, Application and Selection Procedures and Criteria, apply to adult high school charters.

The adopted new rule is constructed to mirror 19 TAC §100.1004 that provides application process requirements for public senior college or university charters and junior college charters. This construction is intended to provide consistency in rule among each program's authorization and administration.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began May 19, 2023, and ended June 20, 2023. Following is a summary of the public comment received and the agency response.

**Comment:** A superintendent of The Goodwill Excel Center for Adults requested the rule specify that the application includes a section describing how the applicant will provide for the adult education program described in TEC, §12.259.

**Response:** The agency agrees that it is beneficial for more specificity to be outlined in rule regarding adult education charter programs; however, no changes to new §100.1019 will be made at this time. The agency anticipates proposing an amendment to the rule to align with legislation passed by the 88th Texas Legislature, Regular Session, 2023.

**STATUTORY AUTHORITY.** The new rule is adopted under Texas Education Code, §12.265, as added by Senate Bill 1615, 87th Texas Legislature, Regular Session, 2021, which requires the commissioner of education to adopt rules to administer the adult high school charter school program.

**CROSS REFERENCE TO STATUTE.** The new rule implements Texas Education Code, §12.265, as added by SB 1615, 87th Texas Legislature, Regular Session, 2021.

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 26, 2023.

TRD-202302658

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 15, 2023

Proposal publication date: May 19, 2023

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



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 10. TEXAS WATER DEVELOPMENT BOARD

#### CHAPTER 354. MEMORANDA OF UNDERSTANDING

##### 31 TAC §§354.1, 354.2, 354.4, 354.6, 354.9, 354.15

The Texas Water Development Board (TWDB) adopts the repeal of 31 Texas Administrative Code §§354.1, 354.2, 354.4, 354.6, 354.9, and 354.15. The proposal is adopted without changes as published in the February 3, 2023, issue of the *Texas Register* (48 TexReg 470). The rules will not be republished.

##### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The TWDB determined through a review of its rules in Chapter 354 that the aforementioned rules for repeal are either expired, were adopted to facilitate the administration of Agency directives that are no longer necessary, or are instead interagency contracts effective pursuant to Chapter 771, Texas Government Code.

##### EFFECTIVE DATE.

These rules will become effective on September 1, 2023.

##### SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

Section 354.1 is repealed as the manner of compliance between the Texas Historical Commission and the TWDB has changed since the promulgation of the rule.

Section 354.2 is repealed because the term of the contract expired August 31, 2017.

Section 354.4 is repealed because the term of the contract expired August 31, 2017, and the General Appropriations Act rider relating to the contract has not been renewed.

Section 354.6 is repealed and the contract will not be readopted into rule as a memorandum of understanding because the contract is an interagency contract between the named agencies under Chapter 771, Texas Government Code.

Section 354.9 is repealed because the term of the contract expired August 31, 2017.

Section 354.15 is repealed because the initiative between the Comptroller of Public Accounts and the Agency is no longer necessary to facilitate TWDB directives.

##### REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the repeal in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the repeal is not subject to Texas Government Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the

public health and safety of the state or a sector of the state. The intent of the repeal is to conduct a review and reorganization of the TWDB's rules as required by state law.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather under Texas Water Code §§5.104, 6.101, and 6.104. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

#### TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this repeal and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this repeal is conducted pursuant to TWDB review and reorganization of its existing Memoranda of Understanding between it and various other state governmental agencies and in order to implement recent legislation. The repeal substantially advances this stated purpose.

The TWDB's analysis also indicates that Texas Government Code, Chapter 2007 does not apply to this repeal because this is an action that is reasonably taken to fulfill an obligation imposed by state statute which is exempt under Texas Government Code §2007.003(b)(4). The TWDB as an agency is required by law to promulgate into its rules all memoranda of understanding it enters into with the TCEQ.

The TWDB evaluated this repeal and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this repeal would be neither a statutory nor a constitutional taking of private real property because it neither relates to nor impacts private property. Specifically, the subject regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the repeal does not constitute a taking under Texas Government Code, Chapter 2007.

#### PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The comment period ended March 6, 2023. No comments were received.

#### STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Water Code §§5.104 and 6.104, which require the TWDB to adopt by rule any MOU with the TCEQ.

This rulemaking affects Texas Water Code, Chapters 6, Subchapter 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 27, 2023.

TRD-2023002677

Ashley Harden

General Counsel

Texas Water Development Board

Effective date: September 1, 2023

Proposal publication date: February 3, 2023

For further information, please call: (512) 463-7686



### 31 TAC §354.6

The Texas Water Development Board (TWDB) adopts 31 Texas Administrative Code §354.6. The proposal is adopted without changes as published in the February 3, 2023, issue of the *Texas Register* (48 TexReg 472). The rule will not be republished.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The TWDB adopts new §354.6 related to a new Memorandum of Understanding (MOU) between the Texas Water Development Board and the Texas Commission on Environmental Quality (TCEQ). The current §354.6 is repealed elsewhere in this same issue of the *Texas Register*.

#### EFFECTIVE DATE.

The rule will become effective on September 1, 2023.

#### SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

§354.6. Memorandum of Understanding Between the Texas Water Development Board and the Texas Commission on Environmental Quality Related to Expedited Permit Review for Interregional Water Supply Projects.

This proposed rule would replace an outdated MOU, repealed elsewhere in this issue of the *Texas Register*, with a new MOU entered into between the TWDB and TCEQ. House Bill (HB) 1052, passed during the 86th Texas Legislative Session, required the TWDB and TCEQ to enter into an MOU related to the expedited permit review for interregional water supply projects funded by the TWDB's State Participation Program. This bill was codified as Texas Water Code §16.145. Texas Water Code §5.104 requires the TWDB to adopt by rule any MOU between the TWDB and TCEQ.

#### REGULATORY IMPACT ANALYSIS DETERMINATION (Texas Government Code §2001.0225)

The TWDB reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Gov-

ernment Code §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to delineate the responsibilities of the TWDB and TCEQ related to expedited permit reviews for interregional water supply projects funded through the State Participation Program.

Even if the rule were a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather Texas Water Code §§ 5.104 and 6.104. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code §2001.0225.

#### TAKINGS IMPACT ASSESSMENT (Texas Government Code §2007.043)

The TWDB evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to comply with the statutory requirement to enter into this MOU outlined in Texas Water Code §16.145. The rule would substantially advance this stated purpose by delineating the responsibilities of the TWDB and TCEQ related to expedited permit reviews for interregional water supply projects funded through the State Participation Program.

The TWDB's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code

§2007.003(b)(4). The TWDB is the agency that implements the State Participation Program.

Nevertheless, the TWDB further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject regulation does not affect a landowner's rights in private real property because this rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. This rule simply delineates the TWDB's and TCEQ's responsibilities related to expedited permit reviews for interregional water supply projects funded through the State Participation Program and establishes compliance with the TWDB's requirement to publish all MOUs with TCEQ in rule. Therefore, the proposed rule does not constitute a taking under Texas Government Code, Chapter 2007.

#### PUBLIC COMMENTS (Texas Government Code §2001.033(a)(1))

The comment period ended March 6, 2023. No comments were received.

#### STATUTORY AUTHORITY (Texas Government Code §2001.033(a)(2))

The amendment is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Water Code §§ 5.104 and 6.104, which requires the TWDB to adopt by rule all MOUs with the TCEQ.

This rulemaking affects Texas Water Code, Chapters 6, 16, and 17.

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 26, 2023.

TRD-202302656

Ashley Harden

General Counsel

Texas Water Development Board

Effective date: September 1, 2023

Proposal publication date: February 3, 2023

For further information, please call: (512) 463-7686





# TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 2, Local Authority Responsibilities, Subchapter F, Continuity of Services--State Facilities are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 904, Continuity of Services--State Facilities.

The rules will be transferred in the Texas Administrative Code effective September 1, 2023.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 2, Subchapter F

TRD-202302706



## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 2, Local Authority Responsibilities, Subchapter F, Continuity of Services--State Facilities are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 904, Continuity of Services--State Facilities.

The rules will be transferred in the Texas Administrative Code effective September 1, 2023.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 2, Subchapter F

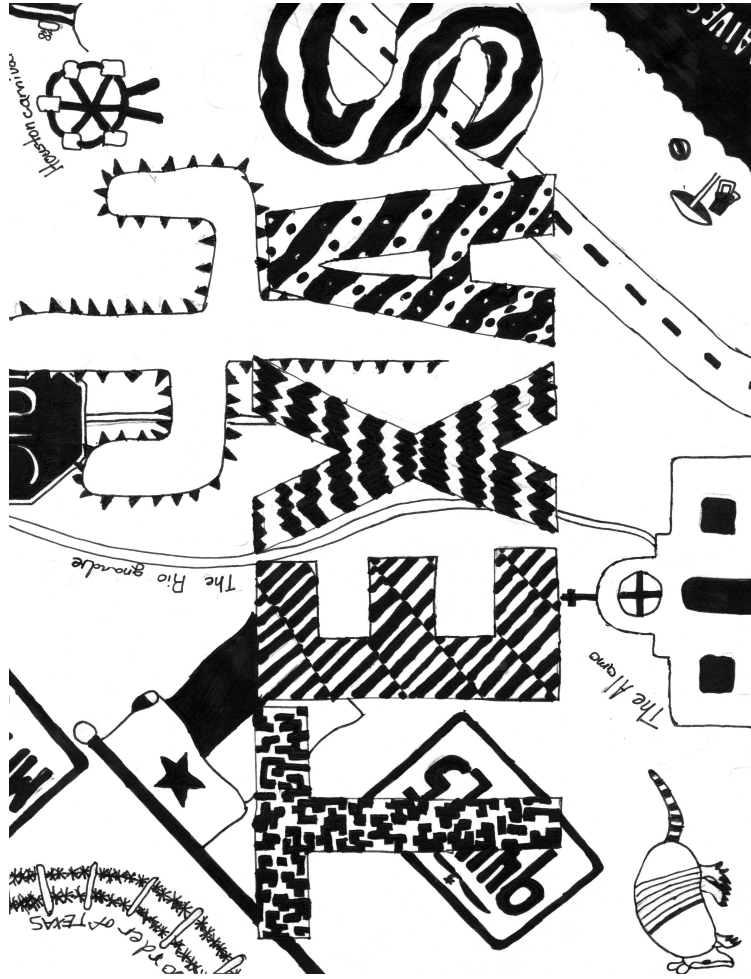
TRD-202302707



Figure: 40 TAC Chapter 2, Subchapter F

<b>Current Rules</b> <b>Title 40. Social Services and Assistance</b> <b>Part 1. Department of Aging and Disability Services</b> <b>Chapter 2. Local Authority Responsibilities</b> <b>Subchapter F. Continuity of Services--State Facilities</b>	<b>Move to</b> <b>Title 26. Health and Human Services</b> <b>Part 1. Health and Human Services Commission</b> <b>Chapter 904. Continuity of Services--State Facilities</b>
<b>Division 1. General Provisions</b>	<b>Subchapter A. General Provisions</b>
§2.251. Purpose.	§904.1. Purpose.
§2.252. Application.	§904.3. Application.
§2.253. Definitions.	§904.5. Definitions.
§2.254. Department's Philosophy Concerning Continuum of Care.	§904.7. Department's Philosophy Concerning Continuum of Care.
<b>Division 2. Admission and Commitment</b>	<b>Subchapter B. Admission and Commitment</b>
§2.255. Criteria for Commitment and Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.	§904.25. Criteria for Commitment and Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.
§2.256. Criteria for Commitment of an Adult under the Texas Code of Criminal Procedure.	§904.27. Criteria for Commitment of an Adult under the Texas Code of Criminal Procedure.
§2.257. Criteria for Commitment of a Minor to a State MR Facility Under the PMRA.	§904.29. Criteria for Commitment of a Minor to a State MR Facility Under the PMRA.
§2.258. Criteria for Placement of a Minor in a State MR Facility for Assessment Under the Texas Family Code.	§904.31. Criteria for Placement of a Minor in a State MR Facility for Assessment Under the Texas Family Code.
§2.259. Criteria for Commitment of a Minor to a State MR Facility Under the Texas Family Code.	§904.33. Criteria for Commitment of a Minor to a State MR Facility Under the Texas Family Code.
§2.260. Criteria for Regular Voluntary Admission of a Minor to a State MR Facility under the PMRA.	§904.35. Criteria for Regular Voluntary Admission of a Minor to a State MR Facility under the PMRA.
§2.261. Criteria for Emergency Admission of an Adult or a Minor to a State MR Facility Under the PMRA.	§904.37. Criteria for Emergency Admission of an Adult or a Minor to a State MR Facility Under the PMRA.
§2.262. Criteria for Admission of an Adult or a Minor to a State MR Facility for Respite Care Under the PMRA.	§904.39. Criteria for Admission of an Adult or a Minor to a State MR Facility for Respite Care Under the PMRA.
§2.263. Criteria for an Order of Protective Custody.	§904.41. Criteria for an Order of Protective Custody.
§2.264. MRA IDT Recommendation Concerning the Commitment of an Adult or a Minor or the Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.	§904.43. MRA IDT Recommendation Concerning the Commitment of an Adult or a Minor or the Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.
§2.265. MRA Referral of an Applicant to a State MR Facility.	§904.45. MRA Referral of an Applicant to a State MR Facility.
§2.266. Process for Admission of an Adult or a Minor Who Has Been Committed to a State MR Facility Under the PMRA.	§904.47. Process for Admission of an Adult or a Minor Who Has Been Committed to a State MR Facility Under the PMRA.
§2.267. Process for the Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.	§904.49. Process for the Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA.
§2.268. Process for Placement of a Minor under the Texas Family Code in a State MR Facility.	§904.51. Process for Placement of a Minor under the Texas Family Code in a State MR Facility.

§2.269. Process for the Emergency Admission of an Adult or a Minor to a State MR Facility Under the PMRA.	§904.53. Process for the Emergency Admission of an Adult or a Minor to a State MR Facility Under the PMRA.
§2.270. Process for Admission of an Adult or a Minor to a State MR Facility for Respite Care Under the PMRA.	§904.55. Process for Admission of an Adult or a Minor to a State MR Facility for Respite Care Under the PMRA.
<b>Division 3. Transfers</b>	<b>Subchapter C. Transfers</b>
§2.271. Transfer of an Individual Between State MR Facilities.	§904.75. Transfer of an Individual Between State MR Facilities.
§2.272. Transfer of an Individual from a State MR Facility to a State MH Facility.	§904.77. Transfer of an Individual from a State MR Facility to a State MH Facility.
§2.273. Transfer of an Individual from a State MH Facility to a State MR Facility.	§904.79. Transfer of an Individual from a State MH Facility to a State MR Facility.
<b>Division 4. Moving from a State Facility to an Alternative Living Arrangement</b>	<b>Subchapter D. Moving from a State Facility to an Alternative Living Arrangement</b>
§2.274. Consideration of Living Options for Individuals Residing in State MR Facilities.	§904.99. Consideration of Living Options for Individuals Residing in State MR Facilities.
§2.275. Accessing Alternative Living Arrangements for an Individual Residing in a State MR Facility Who Has the Ability to Provide Legally Adequate Consent or Has a Legally Authorized Representative (LAR).	§904.101. Accessing Alternative Living Arrangements for an Individual Residing in a State MR Facility Who Has the Ability to Provide Legally Adequate Consent or Has a Legally Authorized Representative (LAR).
§2.276. Accessing Alternative Living Arrangements for an Individual Residing in a State MR Facility Who Does Not Have the Ability to Give Legally Adequate Consent and Who Does Not Have a Legally Authorized Representative (LAR).	§904.103. Accessing Alternative Living Arrangements for an Individual Residing in a State MR Facility Who Does Not Have the Ability to Give Legally Adequate Consent and Who Does Not Have a Legally Authorized Representative (LAR).
§2.277. Arrangements for the Move to an Alternative Living Arrangement of an Individual Residing in a State MR Facility.	§904.105. Arrangements for the Move to an Alternative Living Arrangement of an Individual Residing in a State MR Facility.
§2.278. Community Living/Discharge Plan for Alternative Living Arrangements.	§904.107. Community Living/Discharge Plan for Alternative Living Arrangements.
<b>Division 5. Discharge.</b>	<b>Subchapter E. Discharge.</b>
§2.279. Discharge from a State MR Facility of an Individual Who Moves to an Alternative Living Arrangement.	§904.125. Discharge from a State MR Facility of an Individual Who Moves to an Alternative Living Arrangement.
§2.280. Administrative Discharges Initiated by a State MR Facility.	§904.127. Administrative Discharges Initiated by a State MR Facility.
§2.281. Administrative Discharges from a Voluntary Admission Initiated by an Individual or LAR.	§904.129. Administrative Discharges from a Voluntary Admission Initiated by an Individual or LAR.
<b>Division 6. Special Considerations for Individuals Who Moved from a State Facility to an Alternative Living Arrangement Prior to September 1, 1997</b>	<b>Subchapter F. Special Considerations for Individuals Who Moved from a State Facility to an Alternative Living Arrangement Prior to September 1, 1997</b>
§2.282. Review by Local MRA of Individual in a Community Living Arrangement.	§904.151. Review by Local MRA of Individual in a Community Living Arrangement.
<b>Division 7. Permanency Planning and LAR Notification Requirements for an Individual Under 22 Years of Age</b>	<b>Subchapter G. Permanency Planning and LAR Notification Requirements for an Individual Under 22 Years of Age</b>
§2.283. MRA and State MR Facility Responsibilities.	§904.171. MRA and State MR Facility Responsibilities.





# 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

### Commission on State Emergency Communications

#### Title 1, Part 12

The Commission on State Emergency Communications (CSEC) will review and consider whether to readopt, readopt with amendments, or repeal the rules in Title 1, Part 12, Texas Administrative Code, Chapter 254, *Regional Poison Control Centers*. This review is conducted in accordance with Government Code §2001.039.

CSEC has conducted a preliminary review of Chapter 254 and determined that the reasons for initially adopting the chapter continue to exist. CSEC does not at this time anticipate proposing amendments to its Chapter 254 rules other than to amend rule 254.2, *Poison Control Coordinating Committee*, to extend the date on which the committee is abolished to September 1, 2029. (See Proposed Rules section of this issue of the *Texas Register*.)

All comments or questions regarding this review may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Patrick Tyler, General Counsel, at The Commission on State Emergency Communications, 1801 Congress Avenue, Suite 11.100, Austin, Texas 78701; by facsimile to (512) 305-6937; or by email to [csecinfo@csec.texas.gov](mailto:csecinfo@csec.texas.gov). Please include "Chapter 254 Comments" in the subject line of the comments or questions. Any proposed changes to Chapter 254 will be published for comment in the "Proposed Rules" section of a subsequent issue of the *Texas Register*.

TRD-202302675

Patrick Tyler  
General Counsel

Commission on State Emergency Communications  
Filed: July 27, 2023



Texas Historical Commission

#### Title 13, Part 2

The Texas Historical Commission files this notice of intent to review and consider for re-adoption, revision or repeal, Chapter 12, related to the Texas Historic Courthouse Preservation Program.

Pursuant to Texas Government Code §2001.039, the Texas Historical Commission will assess whether the reason(s) for initially adopting these rules continue to exist. The rules will be reviewed to determine whether they are obsolete, reflect current legal and policy considerations, reflect current general provisions in the governance of the Commission, and/or whether they are in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedures Act).

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*. Comments as to whether the reasons for initially adopting these rules continue to exist may be submitted to Elizabeth Brummett, Director, Architecture Division, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276, or by email to [elizabeth.brummett@thc.texas.gov](mailto:elizabeth.brummett@thc.texas.gov). In a separate action, amendments to the rules are concurrently proposed. Any additional changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-202302698

Mark Wolfe  
Executive Director  
Texas Historical Commission  
Filed: July 28, 2023



Texas Commission on Environmental Quality

#### Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 281, Applications Processing.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 281 continue to exist.

Comments regarding suggested changes to the rules in Chapter 281 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

#### Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 281. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-087-281-OW. Comments must be received by September 12, 2023. For further

information, please contact Jarita Sepulvado, Waste Permits Division, at (512) 239-4413.

TRD-202302724

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 2, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code (TAC) Chapter 288, Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in 30 TAC Chapter 288 continue to exist.

Comments regarding suggested changes to the rules in 30 TAC Chapter 288 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in 30 TAC Chapter 288. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-088-288-OW. Comments must be received by September 12, 2023. For further information, please contact Jade Rutledge, Water Availability Division, at (512) 239-4559.

TRD-202302725

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 2, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 Texas Administrative Code Chapter 331, Underground Injection Control.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 331 continue to exist.

Comments regarding suggested changes to the rules in Chapter 331 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 331. Written comments may be submitted to

Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-086-331-WS. Comments must be received by September 12, 2023. For further information, please contact Jan Bates, Radioactive Materials Division, at (512) 239-6627.

TRD-202302723

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 2, 2023



## Texas Water Development Board

### Title 31, Part 10

The Texas Water Development Board (TWDB) files this notice of intent to review the rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 354.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years.

The TWDB will consider whether the initial factual, legal, and policy reasons for adopting each rule in these chapters and subchapters continue to exist and whether these rules should be repealed, readopted, or readopted with amendments.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by email to [rulescomments@twdb.texas.gov](mailto:rulescomments@twdb.texas.gov), or by fax to (512) 475-2053. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the Texas Register. Include "Chapter 354" in the subject line of any comments submitted.

TRD-202302697

Ashley Harden

General Counsel

Texas Water Development Board

Filed: July 28, 2023



## Adopted Rule Reviews

### Texas Education Agency

#### Title 19, Part 2

Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 61, School Districts, Subchapter AA, Commissioner's Rules on School Finance; Subchapter BB, Commissioner's Rules on Reporting Requirements; Subchapter CC, Commissioner's Rules Concerning School Facilities; Subchapter DD, Commissioner's Rules Concerning Missing Child Prevention and Identification Programs; Subchapter EE, Commissioner's Rules on Prevention, Awareness, and Reporting of Child Abuse or Neglect, Including Trafficking of a Child; Subchapter FF, Commissioner's Rules Concerning Veterans and Military Dependents; Subchapter GG, Commissioner's Rules Concerning Counseling Public School Students; Subchapter HH, Commissioner's Rules Concerning Classroom Supply Reimbursement Program; Subchapter JJ, Commis-

sioner's Rules Concerning Automatic College Admission; and Subchapter KK, Commissioner's Rules on County Boards of Education, pursuant to Texas Government Code, §2001.039. TEA proposed the review of Chapter 61, Subchapters AA-KK, in the April 22, 2022 issue of the *Texas Register* (47 TexReg 2301).

Relating to the review of Chapter 61, Subchapter AA, TEA finds that the reasons for adopting Subchapter AA, §§61.1000, 61.1001, 61.1002, 61.1004, and 61.1006-61.1020 continue to exist and readopts the rules. TEA finds that the reasons for adopting §61.1003 and §61.1005 do not continue to exist. TEA anticipates proposing the repeal of §61.1003 and §61.1005 due to changes codified in House Bill 1525, 86th Texas Legislature, Regular Session, 2019. TEA received no comments related to the review of Subchapter AA.

Relating to the review of Chapter 61, Subchapter JJ, TEA finds that the reasons for adopting Subchapter JJ continue to exist and readopts the rule. TEA received comments related to the review of Subchapter JJ. Following are the comments received related to the review of Subchapter JJ and the corresponding responses.

Comment: One parent expressed support for the rule on automatic admission in Chapter 61, Subchapter JJ. The commenter stated that the top ten percent rule must continue to exist for students at all schools to be fairly admitted into Texas colleges and universities.

Response: The agency agrees that §61.1201 is necessary and appropriate in accordance with Texas Education Code (TEC), §28.026.

In the future, TEA anticipates proposing updates related to notification of automatic college admission and curriculum requirements for financial aid.

Relating to the review of Chapter 61, Subchapters BB-HH and KK, TEA finds that the reasons for adopting Subchapters BB-HH and KK continue to exist and readopts the rules. TEA received no comments related to the review of Subchapters BB-HH and KK. No changes to Subchapters CC, DD, FF, GG, HH, or KK are necessary as a result of the review. At a later date, TEA anticipates proposing updates to the title of §61.1021 in Subchapter BB and may update language in Subchapter EE to align with statute.

This concludes the review of Chapter 61.

TRD-202302736  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: August 2, 2023

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Texas Commission on Fire Protection

**Title 37, Part 13**

The Texas Commission on Fire Protection (commission) adopts the review of Texas Administrative Code, Title 37, Part 13, Chapter 435, concerning Fire Fighter Safety. The review was conducted pursuant to Texas Government Code, Chapter 2001, §2001.039.

The commission received no comments on the proposed rule review, which was published in the October 15, 2021, issue of the *Texas Register* (46 TexReg 7080).

The commission has determined that the reasons for initially adopting the rule continue to exist and readopts the chapter without changes.

This concludes the review of Texas Administrative Code, Title 37, Part 13, Chapter 437.

TRD-202302669  
Mike Wisko  
Agency Chief  
Texas Commission on Fire Protection  
Filed: July 26, 2023

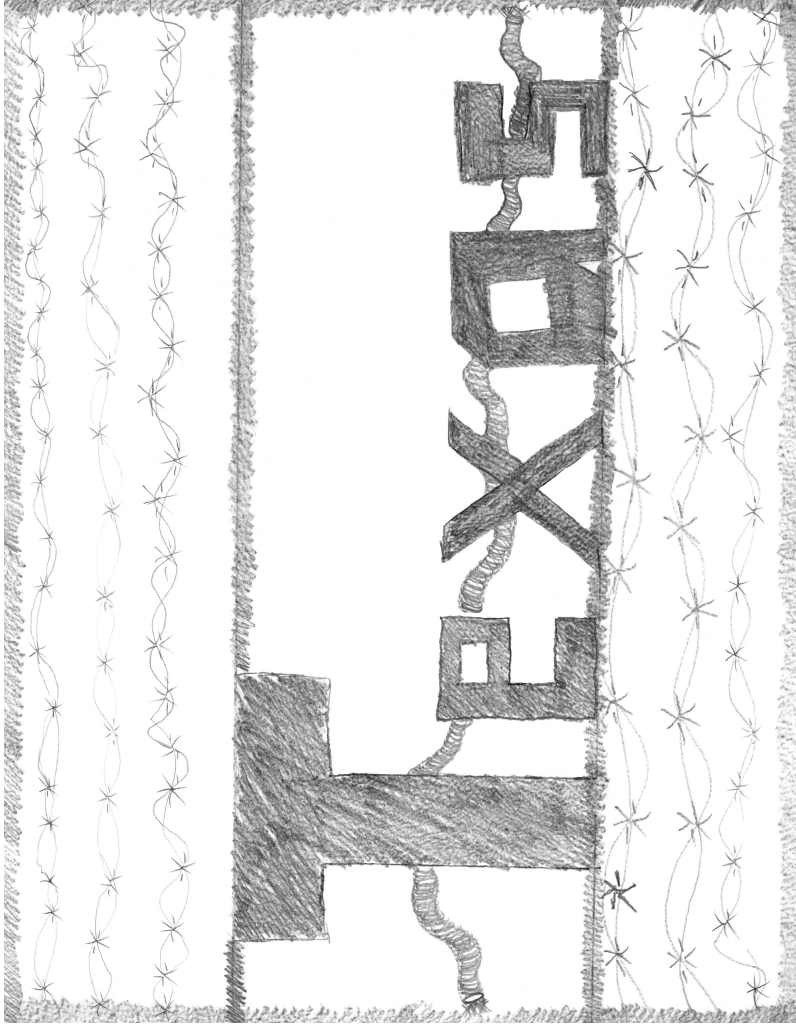
◆ ◆ ◆  
The Texas Commission on Fire Protection (commission) adopts the review of Texas Administrative Code, Title 37, Part 13, Chapter 439, concerning Examinations for Certification. The review was conducted pursuant to Texas Government Code, Chapter 2001, §2001.039.

The commission received no comments on the proposed rule review, which was published in the October 15, 2021, issue of the *Texas Register* (46 TexReg 7081).

The commission has determined that the reasons for initially adopting the rule continue to exist and readopts the chapter without changes.

This concludes the review of Texas Administrative Code, Title 37, Part 13, Chapter 439.

TRD-202302670  
Mike Wisko  
Agency Chief  
Texas Commission on Fire Protection  
Filed: July 26, 2023



# **TABLES &**

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# **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.

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Figure 1: 1 TAC §18.31(a)

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
253.031(b)	PAC: Amount of contributions or expenditures permitted before TA is required	\$500	<u>\$1,050</u> <del>[\$980]</del>
253.031(d)(2)	CEC: Amount of contributions or expenditures permitted before TA is required	\$25,000	<u>\$38,990</u> <del>[\$36,630]</del>
253.032(a)	Contribution by Out-of-state PAC: Threshold above which certain paperwork is required	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
253.032(a)(1)	Contribution to Out-of-state PAC: Threshold above which certain contribution information is required	\$100	<u>\$220</u> <del>[\$200]</del>
253.032(e)	Contribution by Out-of-state PAC: Threshold at or below which certain information is required	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
254.031(a)(1)	Contributions: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.031(a)(2)	Loans: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.031(a)(3)	Expenditures: Threshold over which more information is required	\$100	<u>\$220</u> <del>[\$200]</del>
254.031(a)(5)	Contributions: Threshold at or below which more information is not required	\$50	<u>\$110</u> <del>[\$100]</del>
254.031(a)(5)	Expenditures: Threshold at or below which more information is not required	\$100	<u>\$220</u> <del>[\$200]</del>
254.031(a)(9)	Interest, credits, refunds: Threshold over which more information is required	\$100	<u>\$140</u> <del>[\$130]</del>
254.031(a)(10)	Sale of political assets: Threshold over which proceeds must be reported	\$100	<u>\$140</u> <del>[\$130]</del>
254.031(a)(11)	Investment Gain: Threshold over which more information is required	\$100	<u>\$140</u> <del>[\$130]</del>
254.031(a)(12)	Contribution Gain: Threshold over which more information is required	\$100	<u>\$140</u> <del>[\$130]</del>
254.0311(b)(1)	Caucus, contributions from non-caucus members: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.0311(b)(2)	Caucus, loans: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.0311(b)(3)	Caucus, expenditures: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.0311(b)(4)	Caucus, contributions and expenditures: Threshold at or below which more information is not required	\$50	<u>\$110</u> <del>[\$100]</del>

<b>Campaign Finance Reports: Section of Election Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
254.0312	Contributions, Best Efforts: Threshold under which filer is not required to request contributor information to be in compliance	\$500	<u>\$820</u> <del>[\$770]</del>
254.036	Electronic Filing Exemption: Threshold at or below which a filer may qualify	\$20,000	<u>\$32,810</u> <del>[\$30,820]</del>
254.038(a)	Daily Reports by certain candidates and PACs: Contribution threshold triggering report	\$1,000	<u>\$2,150</u> <del>[\$2,020]</del>
254.039	Daily Reports by GPACs: Contribution threshold triggering report	\$5,000	<u>\$7,350</u> <del>[\$6,910]</del>
254.039	Daily reports by GPACs: DCE expenditure thresholds (single candidate/group of candidates)	\$1,000/\$15,000	<u>\$2,150/\$32,280</u> <del>[\$2,020/\$30,330]</del>
254.0611(a)(2)	Judicial candidates, contributions: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.0611(a)(3)	Judicial candidates, asset purchase: Threshold over which more information is required	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
254.0612	Statewide executive and legislative candidates, contributions: Threshold over which more information is required	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
254.095	Local officeholders, contributions: Threshold under which reporting is not required	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
254.151(6)	GPAC, contributions: Threshold over which more information is required	\$50	<u>\$110</u> <del>[\$100]</del>
254.1541(a)	GPAC, higher itemization threshold: Threshold under which it applies	\$20,000	<u>\$31,190</u> <del>[\$29,300]</del>
254.1541(b)	GPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$100	<u>\$220</u> <del>[\$200]</del>
254.156(1)	MPAC: Threshold over which contribution, lender and expenditure information is required	\$10	\$20
254.156(2)	MPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$20	\$40
254.181 254.182 254.183	Candidate or SPACs, modified reporting: Contribution or expenditure threshold at or below which filers may avoid pre-election reports	\$500	<u>\$1,080</u> <del>[\$1,010]</del>
254.261	DCE filers: Threshold over which a report must be filed	\$100	<u>\$160</u> <del>[\$150]</del>

Figure 2: 1 TAC §18.31(a)

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.003(1)	Lobbyist, expenditures: Threshold over which registration is required	\$500, by 1 Tex. Admin. Code §34.41	<u>\$940</u> [ <del>\$880</del> ]
305.003(2)	Lobbyist, compensation: Threshold over which registration is required	\$1,000, by 1 Tex. Admin. Code §34.43	<u>\$1,870</u> [ <del>\$1,760</del> ]
305.004(7)	Lobbying for political party: Threshold at or below which registration is not required	\$5,000	<u>\$10,760</u> [ <del>\$10,110</del> ]
305.005(g)(2)	Lobbyist: Compensation threshold	\$10,000	<u>Less than \$21,520</u> [ <del>Less than \$20,220</del> ]
305.005(g)(3)	Lobbyist: Compensation threshold	\$25,000	<u>\$21,520 to less than \$53,810</u> [ <del>\$20,220 to less than \$50,540</del> ]
305.005(g)(4)	Lobbyist: Compensation threshold	\$50,000	<u>\$53,810 to less than \$107,610</u> [ <del>\$50,540 to less than \$101,090</del> ]
305.005(g)(5)	Lobbyist: Compensation threshold	\$100,000	<u>\$107,610 to less than \$215,230</u> [ <del>\$101,090 to less than \$202,180</del> ]
305.005(g)(6)	Lobbyist: Compensation threshold	\$150,000	<u>\$215,230 to less than \$322,840</u> [ <del>\$202,180 to less than \$303,270</del> ]
305.005(g)(7)	Lobbyist: Compensation threshold	\$200,000	<u>\$322,840 to less than \$430,450</u> [ <del>\$303,270 to less than \$404,350</del> ]
305.005(g)(8)	Lobbyist: Compensation threshold	\$250,000	<u>\$430,450 to less than \$538,070</u> [ <del>\$404,350 to less than \$505,440</del> ]
305.005(g)(9)	Lobbyist: Compensation threshold	\$300,000	<u>\$538,070 to less than \$645,680</u> [ <del>\$505,440 to less than \$606,530</del> ]
305.005(g)(10)	Lobbyist: Compensation threshold	\$350,000	<u>\$645,680 to less than \$753,290</u> [ <del>\$606,530 to less than \$707,620</del> ]



<b>Lobby Registrations and Reports: Section of Government Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
305.005(g)(11)	Lobbyist: Compensation threshold	\$400,000	<u>\$753,290 to less than \$860,910</u> [ <del>\$707,620 to less than \$808,710</del> ]
305.005(g)(12)	Lobbyist: Compensation threshold	\$450,000	<u>\$860,910 to less than \$968,520</u> [ <del>\$808,710 to less than \$909,800</del> ]
305.005(g)(13)	Lobbyist: Compensation threshold	\$500,000	<u>\$968,520 to less than \$1,076,130</u> [ <del>\$909,800 to less than \$1,010,880</del> ]
305.005(g-1)	Lobbyist: Compensation threshold	\$500,000	<u>\$1,076,130 or more</u> [ <del>\$1,010,880 or more</del> ]
305.0061(c)( <del>3</del> )	Lobbyist, legislative/executive branch member: Threshold over which gifts, awards and mementos must be disclosed	\$50	<u>\$110</u> [ <del>\$100</del> ]
305.0061(e-1)	Lobbyist, food and beverage: Threshold at or below which it is considered a gift and reported as such	\$50	<u>\$110</u> [ <del>\$100</del> ]
305.0063	Lobbyist, annual filer: Expenditure threshold at or below which filer may file annually	\$1,000	<u>\$2,150</u> [ <del>\$2,020</del> ]

Figure 3: 1 TAC §18.31(a)

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.022(a)(1)	PFS threshold	less than \$5,000	less than <u>\$10,760</u> [ <del>\$10,110</del> ]
572.022(a)(2)	PFS threshold	\$5,000 to less than \$10,000	<u>\$10,760</u> [ <del>\$10,110</del> ] to less than <u>\$21,520</u> [ <del>\$20,220</del> ]
572.022(a)(3)	PFS threshold	\$10,000 to less than \$25,000	<u>\$21,520</u> [ <del>\$20,220</del> ] to less than <u>\$53,810</u> [ <del>\$50,540</del> ]
572.022(a)(4)	PFS threshold	\$25,000 or more	<u>\$53,810</u> [ <del>\$50,540</del> ] or more
572.005, 572.023(b)(1)	PFS, retainer: Threshold over which filer with a substantial interest in a business entity must report more information	\$25,000	<u>\$53,810</u> [ <del>\$50,540</del> ]
572.023(b)(4)	PFS, interest, dividends, royalties and rents: Threshold over which information must be reported	\$500	<u>\$1,080</u> [ <del>\$1,010</del> ]
572.023(b)(5)	PFS, loans: Threshold over which information must be reported	\$1,000	<u>\$2,150</u> [ <del>\$2,020</del> ]
572.023(b)(7)	PFS, gifts: Threshold over which information must be reported	\$250	<u>\$540</u> [ <del>\$510</del> ]
572.023(b)(8)	PFS, income from trust: Threshold over which information must be reported	\$500	<u>\$1,080</u> [ <del>\$1,010</del> ]
572.023(b)(15)	PFS, government contracts: Threshold of aggregate over which more information must be reported	Exceeds \$10,000	Exceeds <u>\$11,810</u> [ <del>\$11,100</del> ]
572.023(b)(15)(A)	PFS, government contracts: Itemization threshold	\$2,500 or more	<u>\$2,950</u> [ <del>\$2,770</del> ] or more
572.023(b)(16)(D)(i)	PFS, bond counsel fees paid to legislator: Threshold	less than \$5,000	less than <u>\$5,910</u> [ <del>\$5,550</del> ]
572.023(b)(16)(D)(ii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$5,000 but less than \$10,000	at least <u>\$5,910</u> [ <del>\$5,550</del> ] but less than <u>\$11,810</u> [ <del>\$11,100</del> ]
572.023(b)(16)(D)(iii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$10,000 but less than \$25,000	at least <u>\$11,810</u> [ <del>\$11,100</del> ] but less than <u>\$29,530</u> [ <del>\$27,740</del> ]
572.023(b)(16)(D)(iv)	PFS, bond counsel fees paid to legislator: Threshold	\$25,000 or more	<u>\$29,530</u> [ <del>\$27,740</del> ] or more

<b>Personal Financial Statements: Section of Gov't Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
572.023(b)(16)(E)(i)	PFS, bond counsel fees paid to individual's firm: Threshold	less than \$5,000	less than <u>\$5,910</u> [ <del>\$5,550</del> ]
572.023(b)(16)(E)(ii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$5,000 but less than \$10,000	at least <u>\$5,910</u> [ <del>\$5,550</del> ] but less than <u>\$11,810</u> [ <del>\$11,100</del> ]
572.023(b)(16)(E)(iii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$10,000 but less than \$25,000	at least <u>\$11,810</u> [ <del>\$11,100</del> ] but less than <u>\$29,530</u> [ <del>\$27,740</del> ]
572.023(b)(16)(E)(iv)	PFS, bond counsel fees paid to individual's firm: Threshold	\$25,000 or more	<u>\$29,530</u> [ <del>\$27,740</del> ] or more

Figure 4: 1 TAC §18.31(a)

<b>Speaker Election and Certain Ceremonial Reports: Section of Government Code</b>	<b>Threshold Type</b>	<b>Current Threshold Amount</b>	<b>Adjusted Amount</b>
302.014(4)	Speaker: Expenditures over which more information must be reported	\$10	\$20
303.005(a)(1) – (10)	Governor for a Day/Speaker's Day: Threshold over which more information must be reported	\$50	<u>\$110</u> [ <del>\$100</del> ]

Figure 5: 1 TAC §18.31(a)

<b>Thresholds set by Title 1, Part 2, Tex. Admin. Code</b>	<b>Threshold Type</b>	<b>Original [<del>Current</del>] Threshold Amount</b>	<b>Adjusted Amount</b>
20.62(a)	Staff Reimbursement	\$5,000	\$7,060 [ <del>\$6,910</del> ]
20.220	Comptroller: Additional disclosure	\$500	\$710 [ <del>\$650</del> ]



# IN ADDITION

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

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, §303.005, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/07/23 - 08/13/23 is 18% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/07/23 - 08/13/23 is 18% for commercial<sup>2</sup> credit.

The monthly ceiling as prescribed by §303.005<sup>3</sup> and §303.009 for the period of 08/01/23 - 08/31/23 is 18%.

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

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

<sup>3</sup> Only for variable rate commercial transactions, as provided by §303.004(a).

TRD-202302728

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: August 2, 2023

## Commission on State Emergency Communications

### Notice of Annual Review of Rule 255.4, Definition of Local Exchange Access Line or an Equivalent Local Exchange Access Line

The Commission on State Emergency Communications (CSEC) is conducting its annual review of the definitions of the terms "local exchange access line" and "equivalent local exchange access line" as required by Health and Safety Code §771.063(c). Due to the potentially disruptive changes resulting from advancements in technology, including mobile Internet Protocol-enabled services, CSEC takes no position on whether current §255.4 sufficiently defines the foregoing terms.

Persons wishing to comment, including proposing amendments to §255.4 for consideration, may do so by submitting written comments within 30 days following publication of this notice in the *Texas Register* to Patrick Tyler, General Counsel, Commission on State Emergency Communications, 1800 Congress Avenue, Suite 11-100, Austin, Texas 78701; by facsimile to (512) 305-6937; or by email to [csecinfo@csec.texas.gov](mailto:csecinfo@csec.texas.gov). Please include "Comments on Rule 255.4" in the subject line of your letter, fax, or email.

TRD-202302674

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: July 27, 2023

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 12, 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 **September 12, 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: Buckeye Texas Hub LLC; DOCKET NUMBER: 2019-1364-AIR-E; IDENTIFIER: RN103914974; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: marine terminal facility; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(E)(i) and (c), and 122.143(4), New Source Review (NSR) Permit Numbers 106594, PSDTX1324M1, PSDTX1324M2, and GHGPSDTX185, Special Conditions (SC) Numbers 7, 11.D, 12.E.2, 14.D.(5), 19, and 25.A, Federal Operating Permit (FOP) Number O3622, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 13, and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain records containing the information and data sufficient to demonstrate compliance with the permit; 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Numbers 106594 and PSDTX1324M1, SC Number 1, FOP Number O3622, GTC and STC Number 13, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 106594 and PSDTX1324M1, SC Number 15.I, FOP Number O3622,

GTC and STC Number 13, and THSC, §382.085(b), by failing to estimate the cumulative daily emissions from all components on the delay of repair list; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 106594 and PSDTX1324M1, SC Number 17, FOP Number O3622, GTC and STC Number 13, and THSC, §382.085(b), by failing to annually revalidate the estimated emissions from the inherently low emitting maintenance, startup, and shut-down activities; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 106594 and PSDTX1324M1, SC Number 17, FOP Number O3622, GTC and STC Number 13, and THSC, §382.085(b), by failing to track the routine maintenance activities and calculate the monthly emissions from the maintenance activities; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 106594 and PSDTX1324M1, SC Number 22.D, FOP Number O3622, GTC and STC Number 13, and THSC, §382.085(b), by failing to determine the vacuum truck emissions each month; 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O3622, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; and 30 TAC §122.143(4) and §122.146(2), FOP Number O3622, GTC and STC Number 16, and THSC, §382.085(b), by failing to submit a permit compliance certification within 30 days of any certification period; PENALTY: \$79,386; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(2) COMPANY: Cinco Southwest Municipal Utility District Number 1; DOCKET NUMBER: 2021-0987-MWD-E; IDENTIFIER: RN103215042; LOCATION: Katy, Fort Bend 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 WQ0014343001, Interim II Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$42,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$33,600; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Fossil Rim Wildlife Center, Incorporated; DOCKET NUMBER: 2022-0172-PWS-E; IDENTIFIER: RN101190197; LOCATION: Glen Rose, Somervell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(B), by failing to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface; 30 TAC §290.41(c)(3)(J), by failing to provide the facility's Safari Camp well with a concrete sealing block that extends a minimum of three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away from the wellhead at not less than 0.25 inches per foot; 30 TAC §290.41(c)(3)(K), by failing to seal the wellhead by a gasket or sealing compound and provide a well casing vent for the Safari Camp well that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the facility's well pump prior to any treatment; 30 TAC §290.41(c)(3)(N), by failing to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 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 §290.43(c), by failing to ensure that all potable water storage facilities are covered and designed, fabricated, erected, tested, and

disinfected in strict accordance with current American Water Works Association standards; 30 TAC §290.43(e), by failing to ensure that all potable water storage tanks and pressure maintenance facilities are installed in a lockable building that is designed to prevent intruder access or enclosed by an intruder-resistant fence with lockable gates; 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly, as identified in 30 TAC §290.47(f); 30 TAC §290.46(f)(2) and (3)(A)(i)(II) and (ii)(II), and (B)(iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(m)(1)(A), by failing to inspect the facility's ground storage tanks annually; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's pressure tanks annually; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; 30 TAC §290.110(c)(4)(B), by failing to monitor the disinfectant residual at representative locations in the distribution system at least once per day; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$23,813; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Jose G. Guerra; DOCKET NUMBER: 2022-1563-OSS-E; IDENTIFIER: RN110822830; LOCATION: Liverpool, Brazoria County; TYPE OF FACILITY: private property; RULES VIOLATED: 30 TAC §285.3(a) and (b)(1) and Texas Health and Safety Code, §366.004 and §366.051(a), by failing to obtain authorization prior to constructing, altering, repairing, extending or operating an on-site-sewage facility; PENALTY: \$500; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5865; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Metalwala Brothers 2 LLC dba New Way Mobil; DOCKET NUMBER: 2022-0903-PST-E; IDENTIFIER: RN102357118; LOCATION: Van, Van Zandt County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; and 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the UST for releases in a manner which will detect a release at a frequency of at least once every 30 days, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,600; ENFORCEMENT COORDINATOR: Horus Garcia, (512) 239-1813; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(6) COMPANY: ONEOK Hydrocarbon Southwest, LLC; DOCKET NUMBER: 2021-1102-AIR-E; IDENTIFIER: RN100209949; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas fractionation plant; RULES VIOLATED: 30 TAC §§116.115(b)(2)(F) and (c), 117.310(c)(1), and 122.143(4), New Source Review (NSR) Permit Number 3956B, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O107, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 1.A and 13, and Texas Health and Safety

Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rates and failing to comply with the emissions limit; and 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 3956B, SC Number 1, FOP Number O107, GTC and STC Number 13, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$47,025; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$18,810; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: RON STURGEON REAL ESTATE, L.P. dba Box Office Warehouse Suites; DOCKET NUMBER: 2022-0303-PWS-E; IDENTIFIER: RN111414199; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e) and (h)(1) and Texas Health and Safety Code, §341.035(a), by failing to submit plans and specifications to the Executive Director for review and approval prior to the construction of the 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 public drinking water Well Number 2 into service; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §290.46(e)(4)(A), by failing to operate the facility under the direct supervision of a water works operator who holds a Class D or higher license; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC 290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$8,185; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (361) 881-6990; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: THE LUBRIZOL CORPORATION; DOCKET NUMBER: 2022-0191-IWD-E; IDENTIFIER: RN100221589; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: chemical plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000639000, Effluent Limitations and Monitoring Requirements Number 1 for Outfall Numbers 002 and 004, by failing to comply with permitted effluent limitations; PENALTY: \$57,900; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$23,160; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: US Ecology Texas, Incorporated; DOCKET NUMBER: 2022-0806-WDW-E; IDENTIFIER: RN101445666; LOCATION: Robstown, Nueces County; TYPE OF FACILITY: generator/refining petrochemical facility; RULES VIOLATED: 30 TAC §305.125(1) and §331.63(e), 40 Code of Federal Regulations (CFR) §146.67(c), and Underground Injection Control (UIC) Permit Number Waste Disposal Well (WDW) 278, Permit Provision (PP).VII.E. Operating Parameters, by failing to maintain an annulus pressure of at least 100 pounds per square inch greater than the injection tubing pressure to prevent leaks from the well into unauthorized zones and to detect well malfunctions; 30 TAC §305.125(1) and §331.63(h) and UIC WDW278 and WDW279, PP.V.D. Character of the Waste Streams, by failing to maintain chemical and physical characteristics of the injected fluids within specified permit limits; 30 TAC §305.125(1) and §331.64(g)(1), 40 CFR §146.68(c)(2) and (3), and UIC Permit Numbers WDW278 and WDW279, PP.VIII.H. Monitoring and Testing Requirements, by failing to conduct corrosion monitoring of well materials on a quarterly basis; and 30 TAC §305.125(1) and §331.67(a) and UIC Permit Number WDW278, PP.IX. Record Keeping Requirements, by failing to keep complete and accurate records of all monitoring required by the permit requirements; PENALTY: \$70,300;

ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(10) COMPANY: Valero Refining-Texas, L.P.; DOCKET NUMBER: 2020-1555-IWD-E; IDENTIFIER: RN100211663; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: petroleum refining facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000465000, Effluent Limitations and Monitoring Requirements Number 1 for Outfall Numbers 1 and 4, by failing to comply with permitted effluent limitations; PENALTY: \$28,675; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$14,337; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

TRD-202302709

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: August 1, 2023



### Enforcement Orders

An agreed order was adopted regarding Big Diamond, LLC dba Valero Corner Store 1206, Docket No. 2019-0852-PST-E on August 2, 2023 assessing \$23,675 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Shell USA, Inc. f/k/a Shell Oil Company, Docket No. 2021-0294-AIR-E on August 2, 2023 assessing \$25,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, 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 Magellan Terminals Holdings, L.P., Docket No. 2021-0728-AIR-E on August 2, 2023 assessing \$36,240 in administrative penalties with \$7,248 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, 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 SABIR, INC. dba Stop N Drive 7, Docket No. 2021-0796-PST-E on August 2, 2023 assessing \$8,504 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, 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 Rio Water Supply Corporation, Docket No. 2021-1279-MLM-E on August 2, 2023 assessing \$9,074 in administrative penalties with \$1,814 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 K2C-Austin, LLC, Docket No. 2021-1327-WR-E on August 2, 2023 assessing \$1,125 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 Nico Jaap DeBoer, Docket No. 2021-1354-MLM-E on August 2, 2023 assessing \$16,888 in administrative penalties with \$3,377 deferred. Information concerning any aspect of this order may be obtained by contacting Ellen Ojeda, 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 SAVS Management Corporation, Docket No. 2021-1405-PST-E on August 2, 2023 assessing \$9,000 in administrative penalties with \$1,800 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 CITGO Refining and Chemicals Company L.P., Docket No. 2021-1586-AIR-E on August 2, 2023 assessing \$13,563 in administrative penalties with \$2,712 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, 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 INV Propylene, LLC f/k/a Flint Hills Resources Houston Chemical, LLC, Docket No. 2021-1612-AIR-E on August 2, 2023 assessing \$8,700 in administrative penalties with \$1,740 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, 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 CHATT Water Supply Corporation, Docket No. 2022-0347-PWS-E on August 2, 2023 assessing \$13,420 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, 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 Equistar Chemicals, LP, Docket No. 2022-0907-AIR-E on August 2, 2023 assessing \$23,883 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, 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 GPM Empire, LLC dba Shell 7544, Docket No. 2022-1026-PST-E on August 2, 2023 assessing \$13,775 in administrative penalties with \$2,755 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, 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 VOCAR Transportation Services, L.L.C., Docket No. 2022-1107-PST-E on August 2, 2023 assessing \$33,895 in administrative penalties with \$6,779 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, 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 INEOS USA LLC, Docket No. 2023-0064-AIR-E on August 2, 2023 assessing \$10,050 in administrative penalties with \$2,010 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement

Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202302735

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2023



#### Enforcement Orders

An agreed order was adopted regarding 7-ELEVEN, INC. dba 7-Eleven Store 38610, Docket No. 2021-1022-PST-E on August 1, 2023 assessing \$5,625 in administrative penalties with \$1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, 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 Quadvest, L.P., Docket No. 2022-0068-MWD-E on August 1, 2023 assessing \$3,000 in administrative penalties with \$600 deferred. 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 Cotton Logistics, Inc., Docket No. 2022-0123-MWD-E on August 1, 2023 assessing \$3,080 in administrative penalties with \$616 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, 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 DAWSON RECYCLING, INC., Docket No. 2022-0410-MSW-E on August 1, 2023 assessing \$5,938 in administrative penalties with \$1,187 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, 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 Wisteria Asset LLC, Docket No. 2022-0485-WQ-E on August 1, 2023 assessing \$4,012 in administrative penalties with \$802 deferred. Information concerning any aspect of this order may be obtained by contacting Heather Lancour, 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 T & J AUTO, INC., Docket No. 2022-0658-PST-E on August 1, 2023 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, 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 EMJ Construction LLC, Docket No. 2022-0791-WQ-E on August 1, 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 SAMEENA ENTERPRISES, INC. dba WF DS Texas Saver, Docket No. 2022-0814-PST-E on August 1, 2023 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, 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 Northwest Harris County MUD 20, Docket No. 2022-0821-WQ-E on August 1, 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.

A field citation was adopted regarding Brazos Paving, Inc., Docket No. 2022-0923-WQ-E on August 1, 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 PAK - BADERIA ENTERPRISES, INC. dba M & M Superette, Docket No. 2022-0949-PST-E on August 1, 2023 assessing \$4,076 in administrative penalties with \$815 deferred. Information concerning any aspect of this order may be obtained by contacting Courtney Gooris, 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 ANDERSON WATER CO., INC., Docket No. 2022-1514-UTL-E on August 1, 2023 assessing \$510 in administrative penalties with \$102 deferred. Information concerning any aspect of this order may be obtained by contacting Mason Demasi, 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 Mt. Zion Water Supply Corporation, Docket No. 2023-0191-UTL-E on August 1, 2023 assessing \$500 in administrative penalties with \$100 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.

A field citation was adopted regarding Eggemeyer Land Clearing, LLC, Docket No. 2023-0309-WQ-E on August 1, 2023 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Derrick S. Ubanoski, Docket No. 2023-0633-LII-E on August 1, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Carlos Flores, 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 Joe C. Ortega, Docket No. 2023-0677-WOC-E on August 1, 2023 assessing \$175 in administrative penalties. Information concerning any aspect of this citation 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.

A field citation was adopted regarding Outlier Dairy, LLC, Docket No. 2023-0690-WR-E on August 1, 2023 assessing \$1,050 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Henry Thibodeaux, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202302738

Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: August 2, 2023



#### Notice of Correction to Agreed Order Number 3

In the June 16, 2023, issue of the *Texas Register* (48 TexReg 3334), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 3, for Daingerfield Country Club LLC; Docket Number 2023-0514-WQ-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "2023-0514-WR-E."

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

TRD-202302710  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: August 1, 2023



#### Notice of Correction to Agreed Order Number 23

In the April 28, 2023, issue of the *Texas Register* (48 TexReg 2193), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 23, for TEXAS WATER SYSTEMS, INCORPORATED; Docket Number 2022-1472-UTL-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$1,020."

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

TRD-202302711  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: August 1, 2023



#### Notice of Correction to Shutdown/Default Order Number 1

In the July 21, 2023, issue of the *Texas Register* (48 TexReg 4016), the Texas Commission on Environmental Quality (commission) published notice of a Shutdown/Default Order, specifically Item Number 1, for Sheri Chapman; Docket Number 2022-0116-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-202302714  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: August 1, 2023



## Notice of District Petition

Notice issued July 27, 2023

TCEQ Internal Control No. D-04262023-036; Psalm 25:10 Foundation, a Texas non-profit corporation, ("Petitioner") filed a petition for creation of Prairie View Municipal Utility District No. 1 of Johnson County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner is the owner of a majority of the assessed value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 351.914 acres of land, located within Johnson County, Texas; and (4) all of the land to be included in the proposed District is wholly within the extraterritorial jurisdiction of the City of Godley, Texas. The petition further states that the proposed District will (1) purchase, construct, acquire, improve or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment and appliances helpful or necessary to supply and distribute water for municipal, domestic and commercial purposes; (2) to collect, transport, process, dispose of and control domestic and commercial wastes; (3) to gather, conduct, divert, abate, amend and control local storm water or other harmful excesses of water in the District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled or paved roads and turnpikes, or improvements in aid of those roads; and (5) to purchase, construct, acquire, improve or extend inside or outside of its boundaries such additional facilities, plants, systems and enterprises as shall be consonant with the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$87,687,742.

### 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 request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O.

Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202302733

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2023



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 12, 2023**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 12, 2023**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: LKK Ventures LLC dba 24 Seven 27; DOCKET NUMBER: 2021-1090-PST-E; TCEQ ID NUMBER: RN102424660; LOCATION: 1901 Port Neches Avenue, Port Neches, Jefferson County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum UST; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(B), by failing to monitor a UST installed after January 1, 2009, in a manner

which will detect a release at a frequency of at least once every 30 days using interstitial monitoring; TWC, §26.3475(a) and 30 TAC §334.50(b)(2)(A)(iii), by failing to monitor UST piping installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days using interstitial monitoring in addition to the required annual line leak detector test; 30 TAC §334.602(a), by failing to designate, train and certify at least one named individual for each class of operator - Class A, B and C- for the facility; TWC, §26.3475(c)(2) and 30 TAC §334.48(g)(1)(A)(ii) and (2)(A)(i), by failing to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight; TWC, §26.3475(c)(2) and 30 TAC §334.48(g)(1)(B) and (2)(A)(i), by failing to inspect the overflow prevention equipment at least once every three years; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$12,521; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202302713

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: August 1, 2023



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 12, 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 September 12, 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: Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.; DOCKET NUMBER: 2020-0770-AIR-E; TCEQ ID NUMBER: RN106832967; LOCATION: 4602 South Tower Road, Santa Fe, Galveston County; TYPE OF FACILITY: poultry farm dumpster; RULES VIOLATED: Texas Health and Safety Code, §382.085(a) and

(b), and 30 TAC §101.4, by failing to prevent nuisance odor conditions; PENALTY: \$14,250; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: SHREE VARAHI CONVENIENCE LLC dba Speedys; DOCKET NUMBER: 2021-0780-PST-E; TCEQ ID NUMBER: RN101630192; LOCATION: 12909 Seagoville Road, Balch Springs, Dallas County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the USTs; 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; and 30 TAC §334.605(a), by failing to designate, train, and certify at least one named individual for each class of operator - Class A, B, and C - for the facility; PENALTY: \$4,394; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202302712

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: August 1, 2023



### Notice of Water Quality Application

The following notice was issued on July 27, 2023:

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

#### INFORMATION SECTION

Crystal Springs Water Co., Inc has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0016005001 to authorize the revision of the permitted flow in the Interim I and Interim II phases. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility will be located approximately 0.25 mile north of the intersection of Crockett Martin Road and Farm-to-Market Road 2090, in Montgomery County, Texas 77306.

TRD-202302734

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2023



### Notice of Water Quality Application

The following notice was issued on August 02, 2023:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin,

Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER*.

## INFORMATION SECTION

Campbell Soup Supply Company L.L.C., which operates Campbell Soup Paris Plant, a canning facility that produces various soups and other specialty foods, and manufactures steel containers, has applied for a minor amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001012000 to move the monitoring requirements and effluent limitations for oil and grease from internal Outfall 101 to Outfall 001 and to remove Other Requirement No. 13 (self-imposed operator certification requirements). The draft permit authorizes the discharge of treated process wastewater, utility wastewater, and stormwater via Outfall 001 at a daily average flow rate not to exceed 10,000,000 gallons per day. The facility is located at 500 North Loop 286, which is approximately 1/4 mile west of the intersection of United States Loop Highway 286 and United States Highway 271, in the northern portion of the City of Paris, Lamar County, Texas 75460.

TRD-202302740

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 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 July 24, 2023 to July 28, 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 §§30.20(f), 30.30(h), and 30.40(e), 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, August 4, 2023. The public comment period for this project will close at 5:00 p.m. on Sunday, September 3, 2023.

Federal License and Permit Activities:

**Applicant:** David Hall

**Location:** The project site is located in freshwater wetlands, between the GIWW and Gulf of Mexico, Lot 40, Canal Drive, in Matagorda County, Texas.

**Latitude and Longitude:** 28.771677, -95.613372

**Project Description:** The applicant proposes to fill 0.17 acres of freshwater emergent wetlands between the GIWW and Gulf of Mexico for the purposes of a residential home construction with required amenities.

The applicant has stated that the amount of fill required for this project is the minimum to meet their residential infrastructure needs. Mitigation has not been proposed at this time.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2022-00115. This application will be reviewed pursuant to 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:** 23-1326-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-202302716

Mark Havens

Chief Clerk

General Land Office

Filed: August 1, 2023

## Texas Health and Human Services Commission

Public Notice - Community First Choice (CFC) Attendant Wages

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 purpose of the amendment is to update payment rates for Community First Choice (CFC) services in support of increasing the base wage for certain personal attendants under Medicaid and other programs administered by HHSC to \$10.60 per hour, in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30(a)). The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$1,409,353 for federal fiscal year 2023, consisting of \$963,575 in federal funds and \$445,778 in state general revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$16,599,384, consisting of \$10,980,493 in federal funds and \$5,618,892 in state general revenue. For federal fiscal year 2025, the estimated annual aggregate fee-for-service expenditure is \$16,576,493, consisting of \$10,965,350 in federal funds and \$5,611,143 in state general revenue.

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

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment(s). To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; by facsimile at (512) 730-7472; or by

email at [medicaid\\_chip\\_spa\\_inquiries@hhsc.state.tx.us](mailto:medicaid_chip_spa_inquiries@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of HHSC.

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

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751

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

Fax

Attention: Provider Finance at (512) 730-7475

Email

[PFD-LTSS@hhsc.texas.gov](mailto:PFD-LTSS@hhsc.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-202302717

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 1, 2023



## Public Notice - Day Activity and Health Services (DAHS) Attendant Wages

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 purpose of the amendment is to update the rate methodology and payment rates for Day Activity and Health Services (DAHS) in support of increasing the base wage for certain personal attendants under Medicaid and other programs administered by HHSC to \$10.60 per hour, in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30(a)). The proposed amendment also revises the initial cost report database to calculate the direct care cost component to be the most recent DAHS Medicaid cost report database. The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$373,858 for federal fiscal year 2023, consisting of \$233,175 in federal funds and \$140,683 in state general

revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$5,102,196, consisting of \$3,068,971 in federal funds and \$2,033,225 in state general revenue. For federal fiscal year 2025, the estimated annual aggregate fee-for-service expenditure is \$5,206,168, consisting of \$3,131,510 in federal funds and \$2,074,658 in state general revenue.

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

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment(s). To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; by facsimile at (512) 730-7472; or by email at [medicaid\\_chip\\_spa\\_inquiries@hhsc.state.tx.us](mailto:medicaid_chip_spa_inquiries@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of HHSC.

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

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751

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

Fax

Attention: Provider Finance at (512) 730-7475

Email

[PFD-LTSS@hhsc.texas.gov](mailto:PFD-LTSS@hhsc.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-202302720

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 1, 2023



## Public Notice - Intermediate Care Facilities (ICF) Attendant Wages

### 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 purpose of the amendment is to update the payment rates for Intermediate Care Facilities (ICF) in support of increasing the base wage for certain personal attendants under Medicaid and other programs administered by HHSC to \$10.60 per hour, in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30(a)). The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$574,918 for federal fiscal year 2023, consisting of \$358,576 in federal funds and \$216,342 in state general revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$6,984,563, consisting of \$4,201,215 in federal funds and \$2,783,348 in state general revenue. For federal fiscal year 2025, the estimated annual aggregate fee-for-service expenditure is \$6,982,000, consisting of \$4,199,673 in federal funds and \$2,782,327 in state general revenue.

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

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

Copy of Proposed Amendment(s). To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; by facsimile at (512) 730-7472; or by email at [medicaid\\_chip\\_spa\\_inquiries@hhsc.state.tx.us](mailto:medicaid_chip_spa_inquiries@hhsc.state.tx.us). Copies of the proposal will also be made available for public review at the local offices of HHSC.

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

#### U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751

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

Fax

Attention: Provider Finance at (512) 730-7475

Email

[PFD-LTSS@hhsc.texas.gov](mailto:PFD-LTSS@hhsc.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-202302718

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 1, 2023



## Public Notice - PCS Attendant Wages

### 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 purpose of the amendment is to update the rate methodology and payment rates for Personal Care Services (PCS) in support of increasing the base wage for certain personal attendants under Medicaid and other programs administered by HHSC to \$10.60 per hour, in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30(a)). The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$102,172 for federal fiscal year 2023, consisting of \$63,724 in federal funds and \$38,447 in state general revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$1,226,058, consisting of \$737,474 in federal funds and \$488,584 in state general revenue. For federal fiscal year 2025, the estimated annual aggregate fee-for-service expenditure is \$1,226,058, consisting of \$737,474 in federal funds and \$488,584 in state general revenue.

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

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

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

U.S. Mail

Texas Health and Human Services Commission  
Attention: Provider Finance, Mail Code H-400  
P.O. Box 149030  
Austin, Texas 78714-9030  
Overnight mail, special delivery mail, or hand delivery  
Texas Health and Human Services Commission  
Attention: Provider Finance, Mail Code H-400  
North Austin Complex  
4601 West Guadalupe Street  
Austin, Texas 78751  
Phone number for package delivery: (512) 730-7401  
Fax  
Attention: Provider Finance at (512) 730-7475  
Email  
PFD-LTSS@hhsc.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-202302719

Karen Ray  
Chief Counsel  
Texas Health and Human Services Commission  
Filed: August 1, 2023



#### Public Notice - Primary Health Care (PHC) Attendant Wages

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 purpose of the amendment is to update the rate methodology and payment rates for Primary Home Care (PHC) and Community Attendant Services (CAS) in support of increasing the base wage for certain personal attendants under Medicaid and other programs administered by HHSC to \$10.60 per hour, in accordance with the 2024-25 General Appropriations Act, House Bill 1, 88th Texas Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30(a)). The proposed amendment also revises the initial cost report database to calculate the direct care cost component to be the most recent PHC Medicaid cost report database. The proposed amendment is effective September 1, 2023.

The proposed amendment is estimated to result in an annual aggregate fee-for-service expenditure of \$13,376,972 for federal fiscal year 2023, consisting of \$8,343,218 in federal funds and \$5,033,755 in state general revenue. For federal fiscal year 2024, the estimated annual aggregate fee-for-service expenditure is \$151,268,538, consisting of \$90,988,026 in federal funds and \$60,280,512 in state general revenue. For federal fiscal year 2025, the estimated annual aggregate fee-for-service expenditure is \$147,671,150, consisting of \$88,824,197 in federal funds and \$58,846,953 in state general revenue.

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

A rate hearing was held on July 11, 2023, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the June 16, 2023, issue of the *Texas Register* on pages 3342-3343 at <http://www.sos.state.tx.us/texreg/index.shtml>. Archived recordings of the hearings can be found at <https://www.hhs.texas.gov/about/meetings-events>.

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P.O. Box 149030

Austin, Texas 78714-9030

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Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 West Guadalupe Street

Austin, Texas 78751

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

Fax

Attention: Provider Finance at (512) 730-7475

Email

[PFD-LTSS@hhsc.texas.gov](mailto:PFD-LTSS@hhsc.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-202302721

Karen Ray  
Chief Counsel  
Texas Health and Human Services Commission  
Filed: August 1, 2023



#### Department of State Health Services

Licensing Actions for Radioactive Materials

During the first half of June 2023, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

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

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radioactive Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: (512) 206-3760, or by e-mail to: RAMlicensing@dshs.texas.gov.



AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L06372	AUSTIN	13	06/07/23
BEAUMONT	ATLAS TECHNICAL CONSULTANTS LLC	L06407	LUBBOCK	29	06/08/23
CYPRESS	KPH CONSOLIDATION INC	L06988	CYPRESS	08	06/06/23
DALLAS	HEARTPLACE PA	L04607	DALLAS	77	06/12/23
DEER PARK	DEER PARK REFINING LIMITED PARTNERSHIP	L04554	DEER PARK	47	06/09/23
FREEPORT	BRASKEM AMERICA INC	L06443	FREEPORT	10	06/07/23
FREEPORT	BRASKEM AMERICA INC	L06443	FREEPORT	11	06/13/23
HOUSTON	UT PHYSICIANS	L05465	HOUSTON	29	06/06/23
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN NORTHEAST HOSPITAL	L02412	HOUSTON	152	06/12/23
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03772	HOUSTON	176	06/06/23
KERMIT	ATLAS SAND COMPANY LLC	L07149	AUSTIN	03	06/05/23
LIVINGSTON	MEMORIAL HOSPITAL OF POLK COUNTY DBA MEMORIAL MEDICAL CENTER DBA MEMORIAL MEDICAL CENTER LIVINGSTON	L05552	LIVINGSTON	19	06/14/23

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

LONGVIEW	EASTMAN CHEMICALS COMPANY	L00301	LONGVIEW	127	06/08/23
NEW BRAUNFELS	CHRISTUS SANTA ROSA HEALTH CARE CORPORATION DBA CHRISTUS SANTA ROSA HOSPITAL – NEW BRAUNFELS	L02429	NEW BRAUNFELS	55	06/09/23
ORANGE	INV NYLON CHEMICALS AMERICAS LLC	L05777	ORANGE	24	06/06/23
PASADENA	INEOS STYROLUTION AMERICA LLC	L07133	PASADENA	01	06/07/23
PLANO	HEARTPLACE PA	L05883	PLANO	35	06/06/23
ROUND ROCK	SCOTT & WHITE HOSPITAL – ROUND ROCK DBA BAYLOR SCOTT & WHITE MEDICAL CENTER – ROUND ROCK	L06891	ROUND ROCK	09	06/06/23
THROUGHOUT TX	HVJ SOUTH CENTRAL TEXAS – M&J INC	L06858	AUSTIN	08	06/07/23
THROUGHOUT TX	INTEGRITY TESTING & INSPECTION INC	L06027	DEER PARK	13	06/12/23
THROUGHOUT TX	WESTON SOLUTIONS INC	L07137	FRISCO	03	06/05/23
THROUGHOUT TX	INSIGNIA TTG PARENT LLC	L05791	HOUSTON	19	06/08/23
THROUGHOUT TX	DIGIRAD IMAGING SOLUTIONS INC	L05414	HOUSTON	50	06/09/23
THROUGHOUT TX	THE METHODIST HOSPITAL DBA HOUSTON METHODIST	L00457	HOUSTON	217	06/12/23
THROUGHOUT TX	CARDIAC IMAGING INC	L06565	KATY	24	06/12/23

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	CUTTER TECHNICAL SERVICES LLC	L07052	KILGORE	03	06/02/23
THROUGHOUT TX	ADVANCED CORROSION TECHNOLOGIES & TRAINING LLC	L06508	LA PORT	27	06/09/23
THROUGHOUT TX	ARCTIC TESTING & INSPECTION LLC	L07065	LA PORTE	06	06/14/23
THROUGHOUT TX	ACUREN INSPECTION INC DBA PREMIUM INSPECTION AND TESTING INC DBA VERSA INTEGRITY GROUP INC DBA CAPITAL ULTRASONIC LLC	L01774	LA PORTE	317	06/01/23
THROUGHOUT TX	PRO-SURVE TECHNICAL SERVICES LLC	L06905	LEAGUE CITY	08	06/01/23
THROUGHOUT TX	AMERICAN PIPING INSPECTION INC	L06835	LONGVIEW	17	06/08/23
THROUGHOUT TX	PROTECT LLC	L07110	MIDLAND	06	06/09/23
THROUGHOUT TX	SQS NDT LP	L06896	SANGER	07	06/05/23
THROUGHOUT TX	BRAUN INTERTEC CORPORATION	L06681	TYLER	23	06/06/23

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HARLINGEN	VHS HARLINGEN HOSPITAL COMPANY LLC DBA VALLEY BAPTIST MEDICAL CENTER HARLINGEN	L06499	HARLINGEN	21	06/09/23
MCALLEN	MCALLEN HOSPITALS LP	L01713	MCALLEN	100	06/06/23
ROCKWALL	TEXAS HEALTH PHYSICIANS GROUP TEXAS HEALTH HEART AND VASCULAR SPECIALISTS	L05412	ROCKWALL	18	06/14/23

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HOUSTON	READ CASED HOLE INC	L07109	HOUSTON	01	06/09/23
PASADENA	KANEKA NORTH AMERICA LLC	L06488	PASADENA	04	06/01/23

TRD-202302748  
 Cynthia Hernandez  
 General Counsel  
 Department of State Health Services  
 Filed: August 2, 2023

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**Texas Department of Housing and Community Affairs**

Notice of Funding Availability (NOFA) Release for 2024 Community Services Block Grant Discretionary (CSBG-D) Funds - Reentry Activities Pilot Program

The Texas Department of Housing and Community Affairs (the Department) announces the availability of \$400,000 in CSBG Discretionary

funding for a Reentry Activities Pilot Program. Each year the Department sets aside 5% of its annual CSBG allocation for state discretionary use. Each year funds from CSBG Discretionary are used for specific identified efforts that the Department supports such as assisting previously incarcerated individuals reenter the community and helping them to obtain rental housing through landlord incentives, security deposits and other reentry activities related to housing. This year, \$400,000 has been programmed for the Reentry Activities Pilot Program for which the Department is issuing this NOFA. The Department will release funds competitively.

The Department's anticipated contract period for 2024 CSBG Discretionary Reentry Activities Pilot Program is January 1, 2024, through December 31, 2024.

Interested applicants must meet the requirements set forth in the application and must submit a complete application through the established

system described in the NOFA by 5:00 p.m., Austin local time, Friday, September 1, 2023.

The application forms contained in this packet and submission instructions are available on the Department's web site at <http://www.td-hca.state.tx.us/nofa.htm>. Should you have any questions, please contact Madison Lozano at (512) 936-7798 or [madison.lozano@td-hca.state.tx.us](mailto:madison.lozano@td-hca.state.tx.us).

TRD-202302688  
Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: July 28, 2023

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## Texas Department of Insurance

### Company Licensing

Application to do business in the state of Texas for Physicians Insurance A Mutual Company, a foreign fire and/or casualty company. The home office is in Seattle, Washington.

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-202302737  
Justin Beam  
Chief Clerk  
Texas Department of Insurance  
Filed: August 2, 2023

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## Texas Lottery Commission

### Scratch Ticket Game Number 2536 "Millions Club"

#### 1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2536 is "MILLIONS CLUB". The play style is "key number match".

#### 1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2536 shall be \$50.00 per Scratch Ticket.

#### 1.2 Definitions in Scratch Ticket Game No. 2536.

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: PINEAPPLE SYMBOL, HORSESHOE SYMBOL, POTOFGOLD SYMBOL, COIN SYMBOL, JOKER SYMBOL, KEY SYMBOL, BELL SYMBOL, BOOT SYMBOL, CACTUS SYMBOL, CLOVER SYMBOL, LADYBUG SYMBOL, WISHBONE SYMBOL, CROWN SYMBOL, HEART SYMBOL, RING SYMBOL, ANCHOR SYMBOL, PIG SYMBOL, MONEY SYMBOL, LEMON SYMBOL, BANANA SYMBOL, MELON SYMBOL, GRAPE SYMBOL, PALM SYMBOL, SMILE SYMBOL, BOLT SYMBOL, DIAMOND SYMBOL, PEPPER SYMBOL HAT SYMBOL, PLANE SYMBOL, FISH SYMBOL, CAR SYMBOL, NOTE SYMBOL, CHEST SYMBOL, STRAWBERRY SYMBOL, BANK SYMBOL TROPHY SYMBOL, BUTTERFLY SYMBOL, DICE SYMBOL, ACE SYMBOL, RAINBOW SYMBOL, 01, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$50.00, \$100, \$200, \$300, \$500, \$1,000, \$3,000, \$10,000 and \$1,000,000.

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

Figure 1: GAME NO. 2536 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWN
30	TRTY
31	TRON

32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY

PINEAPPLE SYMBOL	PNAPL
HORSESHOE SYMBOL	HRSHOE
POTOFGOLD SYMBOL	PTGOLD
COIN SYMBOL	COIN
JOKER SYMBOL	JOKER
KEY SYMBOL	KEY
BELL SYMBOL	BELL
BOOT SYMBOL	BOOT
CACTUS SYMBOL	CACTUS
CLOVER SYMBOL	CLOVER
LADYBUG SYMBOL	LBUG
WISHBONE SYMBOL	BONE
CROWN SYMBOL	CROWN
HEART SYMBOL	HEART
RING SYMBOL	RING
ANCHOR SYMBOL	ANCHR
PIG SYMBOL	PIG
MONEY SYMBOL	MONEY
LEMON SYMBOL	LEMN
BANANA SYMBOL	BNNA
MELON SYMBOL	MELN
GRAPE SYMBOL	GRPE
PALM SYMBOL	PALM
SMILE SYMBOL	SMILE
BOLT SYMBOL	BOLT
DIAMOND SYMBOL	DMND
PEPPER SYMBOL	PEPPER
HAT SYMBOL	HAT
PLANE SYMBOL	PLANE



FISH SYMBOL	FISH
CAR SYMBOL	CAR
NOTE SYMBOL	NOTE
CHEST SYMBOL	CHEST
STRAWBERRY SYMBOL	STBRY
BANK SYMBOL	BANK
TROPHY SYMBOL	TRPHY
BUTTERFLY SYMBOL	BTFLY
DICE SYMBOL	DICE
ACE SYMBOL	ACE
RAINBOW SYMBOL	RNBOW
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$3,000	THTH
\$10,000	10TH
\$1,000,000	TPPZ

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2536), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 020 within each Pack. The format will be: 2536-0000001-001.

H. Pack - A Pack of the "MILLIONS CLUB" Scratch Ticket Game contains 020 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 020 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "MILLIONS CLUB" Scratch Ticket Game No. 2536.

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 "MILLIONS CLUB" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy-eight (78) Play Symbols. \$50 BONUS CLUB: If a player reveals 2 matching symbols in the \$50 BONUS CLUB, the player wins \$50. \$100 BONUS CLUB: If the player reveals 2 matching symbols in the \$100 BONUS CLUB, the player wins \$100. \$200 BONUS CLUB: If the player reveals 2 matching symbols in the \$200 BONUS CLUB, the player wins \$200. \$500 BONUS CLUB: If the player reveals 2 matching symbols in the \$500 BONUS CLUB, the player wins \$500. MILLIONS CLUB: If a player matches any of 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 "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 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 seventy-eight (78) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-eight (78) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-eight (78) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-eight (78) 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. MILLIONS CLUB - KEY NUMBER MATCH: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

D. MILLIONS CLUB - KEY NUMBER MATCH: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

E. MILLIONS CLUB - KEY NUMBER MATCH: A Ticket may have up to six (6) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

F. MILLIONS CLUB - KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

G. MILLIONS CLUB - KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$50 and 50).

H. MILLIONS CLUB - KEY NUMBER MATCH: The "2X" (DBL) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

I. MILLIONS CLUB - KEY NUMBER MATCH: The "5X" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

J. MILLIONS CLUB - KEY NUMBER MATCH: The "10X" (WINX10) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

K. MILLIONS CLUB - KEY NUMBER MATCH: The "20X" (WINX20) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "MILLIONS CLUB" Scratch Ticket Game prize of \$50.00, \$100, \$200, \$300 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, \$200, \$300 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 "MILLIONS CLUB" Scratch Ticket Game prize of \$1,000, \$3,000, \$10,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MILLIONS CLUB" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "MILLIONS CLUB" 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 "MILLIONS CLUB" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

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

### 3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 4,080,000 Scratch Tickets in Scratch Ticket Game No. 2536. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2536 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$50.00	408,000	10.00
\$100	510,000	8.00
\$200	204,000	20.00
\$300	49,572	82.30
\$500	40,800	100.00
\$1,000	340	12,000.00
\$3,000	100	40,800.00
\$10,000	100	40,800.00
\$1,000,000	10	408,000.00

\*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 3.36. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2536 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2536, 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-202302715

Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: August 1, 2023

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**Texas State Soil and Water Conservation Board**

Request for Proposal

PROPOSALS DUE: September 22, 2023

INTRODUCTION

This request for proposals (RFP) provides instructions and guidance for applicants seeking funding from the Texas State Soil and Water Conservation Board (TSSWCB) under the Clean Water Act (CWA) §319(h) Nonpoint Source (NPS) Grant Program. The U.S. Environmental Protection Agency (EPA) distributes funds appropriated by Congress annually to the TSSWCB under the authorization of CWA

§319(h). TSSWCB then administers/awards these federal funds as grants to cooperating entities for activities that address the goals, objectives, and priorities stated in the Texas NPS Management Program. The Texas NPS Management Program is the State's comprehensive strategy to protect and restore water quality in waterbodies impacted by NPS water pollution. This document can be accessed online at <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program>.

The types of agricultural and silvicultural NPS pollution prevention and abatement activities that can be funded with §319(h) grants include the following: (1) implementation of nine-element watershed protection plans (WPPs) and the agricultural and silvicultural NPS portion of Total Maximum Daily Load (TMDL) Implementation Plans (I-Plans); (2) surface water quality monitoring, data analysis, modeling, and demonstration of innovative best management practices (BMPs); (3) technical assistance to landowners for conservation planning; (4) public outreach/education, development of nine-element WPPs including the formation and facilitation of stakeholder groups; and (5) monitoring activities to determine the effectiveness of specific pollution prevention methods. Strictly research activities are not eligible for §319(h) grant funding.

#### Proposals Requested

The TSSWCB is requesting proposals for watershed assessment, planning, implementation, demonstration, and education projects within the boundaries of impaired or threatened watersheds. The Texas Integrated Report of Surface Water Quality describes the water quality conditions for waterbodies in the state. All proposals must focus on the restoration and protection of water quality consistent with the goals, objectives, and priority watersheds and aquifers identified in Appendix C and D of the Texas NPS Management Program. Up to \$1 million of the TSSWCB's FY2024 CWA §319(h) grant will be eligible for award under this RFP. No more than 10% of these funds may be utilized for groundwater projects. A competitive proposal process will be used so that the most appropriate and effective projects are selected for available funding.

Applicants that submit project proposals should, where applicable, focus on interagency coordination, demonstrate new or innovative technologies, use comprehensive strategies that have statewide applicability, and highlight public participation. Examples of project proposals previously funded by TSSWCB are available at: <https://www.tsswcb.texas.gov/index.php/programs/texas-nonpoint-source-management-program/active-nonpoint-source-grant-projects>.

Additionally, applicants are encouraged to review EPA's Grant Guidelines for the NPS Program available at <https://www.epa.gov/nps/319-grant-program-states-and-territories>.

#### Individual Award Amounts

This RFP does not set a maximum or minimum award amount for individual projects; however, project funding generally ranges between \$100,000 and \$400,000 for a two to three-year project.

#### Reimbursement and Matching Requirements

The TSSWCB CWA §319(h) NPS Grant Program has a 60/40% match requirement, however proposals that do not meet the minimum matching requirement will still be considered. The cooperating entity will be reimbursed up to 60% from federal funds and must contribute a minimum of 40% of the total costs to conduct the project. The match must be from non-federal sources (may be cash or in-kind services) and must be described in the budget justification. Reimbursable indirect costs are limited to no more than 15% of total federal direct costs.

#### Required Reporting and QAPP

Quarterly progress and final reports are the minimum project reporting requirements. All projects that include an environmental data collection, generation or compilation component (e.g., water quality monitoring, modeling, bacterial source tracking) must have a Quality Assurance Project Plan (QAPP), to be reviewed and approved by TSSWCB and the EPA. Project budgets and timelines should account for the development and review of QAPPs, final reports, and watershed protection plans. More information on QAPPs and the TSSWCB Environmental Data Quality Management Plan is available at <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program/environmental-data-quality-management>.

#### TSSWCB PRIORITIES

For this FY2024 RFP, the following project priorities have been identified. Proposals that do not focus on these priorities are still welcomed but may score lower than those that focus on the priorities.

##### Priority Project Activities

Implement WPPs and TMDL I-Plans (see priority areas listed below).

WPP development initiatives (see Appendix C in Texas NPS Management Program), which include activities such as the formation of watershed groups or water quality data collection and analysis.

Implement components of the Texas Coastal NPS Pollution Control Program in the Coastal Management Zone.

Support use of federal Farm Bill Programs and Initiatives (National Water Quality Initiative).

Demonstration projects and/or development/delivery of education programs.

##### Priority Areas for WPP Implementation Projects

##### WPPs

Geronimo and Alligator Creeks

Lake Lavon

Plum Creek (Segment 1810)

Lampasas River

Double Bayou

San Fernando and Petronila

Mid and Lower Cibolo

Lavaca River

Tres Palacios

Carancahua Bay

#### ELIGIBLE ORGANIZATIONS

Grants will be available to public and private entities such as local municipal and county governments and other political subdivisions of the State (e.g., soil and water conservation districts), educational institutions, non-profit organizations, and state and federal agencies. Private organizations (for profit), may participate in projects as partners or contractors but may not apply directly for funding.

#### SELECTION PROCESS AND AWARD

##### Review Process

TSSWCB will review each proposal that is submitted by the deadline by an eligible organization.

At any time during the review process, a TSSWCB staff member may contact the applicant for additional information.

All areas of the budget are subject to review and approval by TSSWCB.

#### Scoring

Reviewed proposals will be scored and ranked based on the evaluation and ranking criteria included in this RFP on pp. 19-20. A minimum scoring requirement (70%) is necessary for proposals to be eligible for consideration.

All applicants, unsuccessful and successful, will be notified. Those applicants whose proposals are recommended for funding will be contacted, and then TSSWCB will work with the applicant to revise and finalize the proposal prior to submittal to EPA. EPA must review and approve all proposals prior to TSSWCB awarding grant funds. All grant awards will be contingent on the selected applicant's return of a grant contract provided by TSSWCB which will incorporate all applicable state and federal contracting requirements.

#### Grant Award Decisions

During the grant review and award process, the TSSWCB may take into consideration other factors including whether the applicant has demonstrated acceptable past performance as a grantee in areas related to programmatic and financial stewardship of grant funds.

TSSWCB may choose to award a grant contract from a different TSSWCB funding source than that for which the applicant applied.

TSSWCB is not obligated to award a grant at the total amount requested and/or within the budget categories requested. TSSWCB reserves the right to make awards at amounts above or below the stated funding levels. All grant decisions including, but not limited to, eligibility, evaluation and review, and funding rest completely within the discretionary authority of the TSSWCB. The decisions made by the TSSWCB are final and are not subject to appeal.

#### Funding Priority

TSSWCB reserves the right to consider all other appropriations or funding an applicant currently receives when making funding decisions.

#### Grant Award Notification

All applicants, unsuccessful and successful, will be notified. Those applicants whose proposals are recommended for funding will be contacted, and then TSSWCB will work with the applicant to revise and finalize the proposal prior to submittal to EPA. EPA must review and approve all proposals prior to TSSWCB awarding grant funds. TSSWCB may utilize a grant contract document and/or a notice of grant document once a decision is made to award a grant. The applicant will be given a deadline to accept the grant award and to return the appropriate document to the TSSWCB within the time prescribed by the TSSWCB. An applicant's failure to return the signed document to the TSSWCB within the prescribed time period will be construed as a rejection of the grant award, and the TSSWCB may de-obligate funds.

#### Special Conditions

The TSSWCB may assign special conditions at the time of the award. Until satisfied, these special conditions may affect the applicant's ability to receive funds. If special conditions are not resolved, the TSSWCB may de-obligate funds up to the entire amount of the grant award.

#### ELIGIBLE BUDGET CATEGORIES

##### Personnel

##### Fringe Benefits

##### Travel

##### Equipment

##### Supplies

##### Contractual

##### Construction

##### Other

##### Indirect

#### INELIGIBLE COSTS

Ineligible costs include, but are not limited to:

Contracting for grant activities that would otherwise be provided by employees of the grantee's organization

Payment for lobbying

Purchasing food and beverages except as allowed under Texas State Travel Guidelines

Purchasing or leasing vehicles

Purchasing promotional items or recreational activities

Paying for travel that is unrelated to the direct delivery of services that supports the project funded under this RFP

Paying consultants or vendors who participate directly in writing a grant application

Paying any portion of the salary or any other compensation for an elected government official

Payment of bad debt, fines or penalties

Purchasing any other products or services the TSSWCB identifies as inappropriate or unallowable.

Any unallowable costs set forth in state or federal cost principles

Any unallowable costs set forth in the NPS Grant Program.

#### STATE AND FEDERAL REQUIREMENTS

All applicants should review and be familiar with the TSSWCB administrative rules governing Nonpoint Source Grant Program. These rules are published in Texas Administrative Code, Title 31, Part 17, Chapter 523, § 523.1(b)(2): [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_floc=&p\\_ploc=&pg=1&p\\_tac=&ti=31&pt=17&ch=523&rl=1](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_floc=&p_ploc=&pg=1&p_tac=&ti=31&pt=17&ch=523&rl=1)

In addition to the TSSWCB's administrative rules, applicants should be familiar with the Texas Grant Management Standards (TxGMS) and relevant Code of Federal Regulations (CFR) that relate to state, and if applicable, federal grant funding. TxGMS can be found at: <https://comptroller.texas.gov/purchasing/grant-management/>. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 can be found at: <http://www.ecfr.gov>.

#### SUBMISSION PROCESS

To obtain a complete copy of TSSWCB's RFP and proposal submission packet, please visit <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program> or contact Jana Lloyd at (254) 773-2250 ext. 224. All proposals must be submitted electronically (MS® Word) using the workplan template provided in this RFP; otherwise, proposals will be considered administratively incomplete and not considered for funding. All letters of support for the proposal, including letters from Project Partners confirming their role, must be received by the proposal due date to be considered. Submit proposals to [jlloyd@tsswcb.texas.gov](mailto:jlloyd@tsswcb.texas.gov). Proposals must be received electronically by 5:00 p.m. CDT, September 22, 2023 to be considered.

## FY2024 GRANT TIMELINE

Issuance of RFP August 11, 2023

Deadline for Submission of Proposals September 22, 2023

Proposal Evaluation by TSSWCB October-November 2023

Notification of Selected Proposals/Unsuccessful applicants December 2023

Work with applicants to Finalize Selected Proposals November- December 2023

Review of Selected Proposals by EPA January 2024

Submit Grant Application to EPA May 2024

Contract Award August 2024

Anticipated Project Start Date September 1, 2024

TRD-202302708

Heather Bounds

Government Affairs Specialist

Texas State Soil and Water Conservation Board

Filed: August 1, 2023



## Texas Department of Transportation

### Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation (department) will hold a public hearing on Thursday, August 31, 2023, at 10:00 a.m. Central Standard Time (CST) to receive public comments on the August 2023 Quarterly Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2023-2026. The hearing will be conducted via electronic means. Instructions for accessing the hearing will be published on the department's website at: <https://www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings.html>

The STIP reflects the federally funded transportation projects in the FY 2023-2026 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects for the nonattainment areas of Dallas-Fort Worth, El Paso, Houston and San Antonio. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP and STIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.). Section 134 requires an MPO to develop its TIP in cooperation with the state and affected public transit operators and to provide an opportunity for interested parties to participate in the development of the program. Section 135 requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

A copy of the proposed August 2023 Quarterly Revisions to the FY 2023-2026 STIP will be available for review, at the time the notice of hearing is published, on the department's website at: <https://www.txdot.gov/inside-txdot/division/transportation-planning/stips.html>

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division,

at (512) 810-6663 no later than 12:00 p.m. CST on Wednesday, August 30, 2023. Speakers will be taken in the order registered and will be limited to three minutes. Speakers who do not register in advance will be taken at the end of the hearing. Any interested person may offer comments or testimony; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony.

The public hearing will be conducted in English. Persons who have special communication or accommodation needs and who plan to participate in the hearing are encouraged to contact the Transportation Planning and Programming Division, at (512) 810-6663. Requests should be made at least three working days prior to the public hearing. Every reasonable effort will be made to accommodate the needs.

Interested parties who are unable to participate in the hearing may submit comments regarding the proposed August 2023 Quarterly Revisions to the FY 2023-2026 STIP to Humberto Gonzalez, P.E., Director of the Transportation Planning and Programming Division, P.O. Box 149217, Austin, Texas 78714-9217. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by 4:00 p.m. CST on Tuesday, September 12, 2023.

TRD-202302678

Jack Ingram

Senior General Counsel

Texas Department of Transportation

Filed: July 27, 2023



### Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation (department) will hold a public hearing on Thursday, August 31, 2023, at 10:00 a.m. Central Standard Time (CST) to receive public comments on the August 2023 Quarterly Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2023-2026. The hearing will be conducted via electronic means. Instructions for accessing the hearing will be published on the department's website at: <https://www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings.html>

The STIP reflects the federally funded transportation projects in the FY 2023-2026 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects for the nonattainment areas of Dallas-Fort Worth, El Paso, Houston and San Antonio. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP and STIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.). Section 134 requires an MPO to develop its TIP in cooperation with the state and affected public transit operators and to provide an opportunity for interested parties to participate in the development of the program. Section 135 requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further re-

quires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

A copy of the proposed August 2023 Quarterly Revisions to the FY 2023-2026 STIP will be available for review, at the time the notice of hearing is published, on the department's website at: <https://www.txdot.gov/inside-txdot/division/transportation-planning/stips.html>

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division, at (512) 810-6663 no later than 12:00 p.m. CST on Wednesday, August 30, 2023. Speakers will be taken in the order registered and will be limited to three minutes. Speakers who do not register in advance will be taken at the end of the hearing. Any interested person may offer comments or testimony; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony.

The public hearing will be conducted in English. Persons who have special communication or accommodation needs and who plan to participate in the hearing are encouraged to contact the Transportation Planning and Programming Division, at (512) 810-6663. Requests should be made at least three working days prior to the public hearing. Every reasonable effort will be made to accommodate the needs.

Interested parties who are unable to participate in the hearing may submit comments regarding the proposed August 2023 Quarterly Revisions to the FY 2023-2026 STIP to Humberto Gonzalez, P.E., Director of the Transportation Planning and Programming Division, P.O. Box 149217, Austin, Texas 78714-9217. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by 4:00 p.m. CST on Tuesday, September 12, 2023.

TRD-202302701

Jack Ingram

Senior General Counsel

Texas Department of Transportation

Filed: July 31, 2023





## How to Use the Texas Register

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 48 (2023) is cited as follows: 48 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “48 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 48 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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