
TEXAS REGISTER

Volume 50 Number 4

January 24, 2025

Pages 503 – 588



TEXAS REGISTER

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

<https://www.sos.texas.gov>
register@sos.texas.gov

Texas Register, (ISSN 0362-4781, USPS 12-0090), is published weekly (52 times per year) for \$669.00 (\$991.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P. O. Box 1710, Latham, NY 12110.

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

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

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

Secretary of State - Jane Nelson

Interim Director - Zeenia R. Challa

Editor-in-Chief - Jill S. Ledbetter

Deputy Editor-in-Chief - Belinda Kirk

Editors

Catherine E. Bacon

Leti Benavides

Jay Davidson

Briana Franklin

Laura Levack

Matthew Muir

Breanna Mutschler

IN THIS ISSUE

GOVERNOR

Appointments.....	507
Proclamation 41-4164.....	507

PROPOSED RULES

TEXAS ETHICS COMMISSION

ADVISORY OPINIONS

1 TAC §§8.3, 8.5, 8.11, 8.18, 8.21.....	509
1 TAC §8.17.....	510

REFERRALS TO PROSECUTORS

1 TAC §13.1.....	511
------------------	-----

REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

1 TAC §20.1.....	512
------------------	-----

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

REIMBURSEMENT RATES

1 TAC §§355.502, 355.505, 355.513.....	515
1 TAC §§355.723, §355.725.....	518
1 TAC §355.8301.....	522

TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

ORGANIZATION AND ADMINISTRATION

22 TAC §131.2.....	524
--------------------	-----

TEXAS BOARD OF PARDONS AND PAROLES

SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§148.41 - 148.43, 148.45, 148.48, 148.50 - 148.55.....	527
--	-----

MEMORANDUM OF UNDERSTANDING AND BOARD POLICY STATEMENTS

37 TAC §150.55.....	530
---------------------	-----

WITHDRAWN RULES

TEXAS ETHICS COMMISSION

FINANCIAL DISCLOSURE FOR PUBLIC OFFICERS

1 TAC §40.5.....	533
------------------	-----

TEXAS DEPARTMENT OF BANKING

MONEY SERVICES BUSINESSES

7 TAC §33.81.....	533
-------------------	-----

OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM OFFICE

SPORTS AND EVENTS TRUST FUND

10 TAC §§184.1 - 184.4.....	533
-----------------------------	-----

10 TAC §§184.10 - 184.13.....	533
10 TAC §§184.20 - 184.23.....	533
10 TAC §§184.30 - 184.33.....	534
10 TAC §§184.40 - 184.45.....	534
10 TAC §184.50, §184.51.....	534

SPORTS AND EVENTS TRUST FUND

10 TAC §§184.1 - 184.3.....	534
10 TAC §§184.10 - 184.13.....	534
10 TAC §§184.20 - 184.22.....	534
10 TAC §184.30, §184.31.....	534
10 TAC §§184.40 - 184.45.....	534
10 TAC §184.50, §184.51.....	535

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES

30 TAC §§114.1, 114.2, 114.7.....	535
30 TAC §§114.50, 114.51, 114.53.....	535
30 TAC §§114.60, 114.64, 114.66, 114.72.....	535
30 TAC §§114.80, 114.81, 114.82, 114.84, 114.87.....	535

ADOPTED RULES

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

MEDICAID HEALTH SERVICES

1 TAC §354.1832.....	537
1 TAC §354.1921.....	538

TEXAS EDUCATION AGENCY

STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS

19 TAC §67.25.....	538
--------------------	-----

OTHER TEXAS ESSENTIAL KNOWLEDGE AND SKILLS

19 TAC §120.20, §120.21.....	539
------------------------------	-----

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

19 TAC §127.482.....	550
----------------------	-----

TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER AND TECHNICAL EDUCATION

19 TAC §130.30.....	551
19 TAC §§130.136 - 130.138, 130.143, 130.144.....	552
19 TAC §130.445, §130.446.....	552

TEXAS STATE BOARD OF PLUMBING EXAMINERS

ADMINISTRATION

22 TAC §361.1552

TEXAS PARKS AND WILDLIFE DEPARTMENT

AGENCY DECISION TO REFUSE LICENSE OR PERMIT ISSUANCE OR RENEWAL AND AGENCY DECISION TO SUSPEND OR REVOKE AFFECTED LICENSE OR PERMIT

31 TAC §56.7557

OYSTERS, SHRIMP, AND FINFISH

31 TAC §58.21558

OYSTERS, SHRIMP, AND FINFISH

31 TAC §§58.352, 58.353, 58.355, 58.356561

31 TAC §§58.354, 58.359, 58.360564

COMPTROLLER OF PUBLIC ACCOUNTS

COMPTROLLER GRANT PROGRAMS

34 TAC §16.300, 16.303 - 16.305564

IN ADDITION

Office of the Attorney General

Texas Water Code and Texas Health and Safety Code Settlement Notice567

Coastal Bend Workforce Development Board

Request for Proposals for General Contractor Services Mission Plaza Phase III RFP 25-01567

Office of Consumer Credit Commissioner

Notice of Rate Ceilings567

Credit Union Department

Application for a Merger or Consolidation568

Applications to Expand Field of Membership568

State Board for Educator Certification

Correction of Error568

Texas Commission on Environmental Quality

Agreed Orders575

Notice of an Application to Amend a Certificate of Adjudication Application No. 13823578

Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 178112579

Request for Nominations Municipal Solid Waste Management and Resource Recovery Advisory Council580

Texas Ethics Commission

List of Late Filers581

General Land Office

Notice of Intention to Conduct Assessment and Restoration Planning for the Pelican Island Release by Martin Operating Partnership L.P., Martin Operating General Partnership LLC, and Martin Midstream Partners L.P. into Galveston Bay on May 15, 2024581

Public Notice and Request for Comments on the Texas Coastal Management Program's Submission of Proposed Program Changes583

Texas Health and Human Services Commission

Criminal History Requirements for Child Care Operations - Proposed583

Public Notice: Texas State Plan for Medical Assistance - Home and Community-Based Services Adult Mental Health (HCBS-AMH) §1915(i) State Plan Benefit Renewal585

Texas Department of Insurance

Company Licensing587

Panhandle Regional Planning Commission

Legal Notice588

Texas Department of Transportation

Public Hearing Notice - Correction Statewide Transportation Improvement Program January 2025 Out-of-Cycle Revision588

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 January 8, 2025

Appointed as Judge of the Criminal District Court No. 1, Dallas County, for a term until December 31, 2026, or until her successor shall be duly elected and qualified, Jennifer J. Balido of Dallas, Texas (replacing Judge Tina Clinton of Dallas, who was elected to the Fifth Court of Appeals).

Designating L'Oreal Stepney of Pflugerville as chairman of the Texas Water Development Board for a term to expire at the pleasure of the Governor. (Ms. Stepney is replacing Brooke T. Paul of Austin as chairman.)

Appointed to the Texas Low-Level Radioactive Waste Disposal Compact Commission for a term to expire September 1, 2029, Ryan C. Anwar of Midland, Texas (replacing Lisa M. Edwards of Granbury, whose term expired).

Appointed to the Texas Low-Level Radioactive Waste Disposal Compact Commission for a term to expire September 1, 2029, John M. Salsman of Driftwood, Texas (Mr. Salsman is being reappointed).

Appointments for January 9, 2025

Appointed to the Governing Board of the Texas School for the Deaf for a term to expire January 31, 2027, Lauren T. Ridloff of Austin, Texas (replacing Dina L. Moore of Round Rock, who resigned).

Appointed to the Texas Animal Health Commission for a term to expire September 6, 2027, Kynan L. Sturgess, D.V.M. of Hereford, Texas (replacing Alecyssa H. "Ali" Broyles, D.V.M. of Weatherford, who resigned).

Appointments for January 10, 2025

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2025, Jeffrey J. "Jeff" Bradley of Huntsville, Texas (replacing Tommy G. "Tom" Fordyce of Huntsville, who resigned).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2029, Cathy Altman of Midlothian, Texas (Ms. Altman is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2029, Casey Yeary Callas of Apple Springs, Texas (replacing Dennis J. "Joe" McCleskey of Apple Springs, whose term expired).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2029, Megan W. Deen of Fort Worth, Texas (Ms. Deen is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2029, Steven L. "Steve" Roberts of Coldspring, Texas (Mr. Roberts is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2029, David G. "Dave" Ward of Madisonville, Texas (Mr. Ward is being reappointed).

Appointments for January 10, 2025

Appointed to the Board for Lease of Texas Parks and Wildlife Lands for a term to expire September 1, 2025, Clifton E. "Cliff" Bickerstaff of Amarillo, Texas (Mr. Bickerstaff is being reappointed.)

Appointed to the State Commission on Judicial Conduct for a term to expire November 19, 2025, Yinon Weiss of Austin, Texas (replacing Janis A. Holt of Silsbee, who resigned).

Appointed to the State Commission on Judicial Conduct for a term to expire November 19, 2029, April I. Aguirre of Pasadena, Texas (replacing Clifford T. "Cliff" Harbin of Montgomery, whose term expired).

Greg Abbott, Governor

TRD-202500111



Proclamation 41-4164

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on October 14, 2024, as amended and renewed in a subsequent proclamation, certifying that elevated fire weather conditions pose an imminent threat of widespread or severe damage, injury, or loss of life or property in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same elevated fire weather conditions persist in certain 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, Archer, Armstrong, Atascosa, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe, Brown, Burlison, Burnet, Caldwell, Calhoun, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, El Paso, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Freestone, Frio, Gaines, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hockley, Hood, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Martin, Mason, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Robertson, Rockwall, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry,

Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Victoria, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Yoakum, Young, and Zavala 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 12th day of January, 2025.

Greg Abbott, Governor

TRD-202500094



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 8. ADVISORY OPINIONS

1 TAC §§8.3, 8.5, 8.11, 8.18, 8.21

The Texas Ethics Commission (the TEC) proposes amendments to Texas Ethics Commission Rules in Chapter 8 regarding Advisory Opinions.

State law requires state agencies to "review and consider for re-adoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "re-adopt, re-adopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.* The TEC is authorized to adopt rules to administer Chapter 571 of the Government Code. Tex. Gov't Code §§ 571.061, .062.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding advisory opinions, which are codified in Chapter 8. The adoption of amendments to some rules and the repeal of one rule seeks to clarify the rules related to requests for advisory opinions.

The rules and amendments are designed to more closely track statutory language and to provide more clarity and notice of the TEC's interpretations of the statutory requirements in Chapter 571 of the Government Code regarding advisory opinions.

Specifically, the TEC proposes amendments to rules §§8.3 regarding Subject of an Advisory Opinion, 8.5 regarding Persons Eligible to Receive an Advisory Opinion, 8.11 regarding Review and Processing of a Request, 8.18 regarding No Defense to Prosecution or Civil Penalty, and 8.21 regarding Compilation of Advisory Opinions.

The proposed amendments to Chapter 8 include:

- Repealing parts of §8.3, which are unnecessary as they just repeats statute;
- Amending §8.5 to make clear that a person may not request an opinion about how the law relates to another person;
- Adding §8.11(e) to clearly authorize staff to ask the requestor to clarify a request;
- Adding §8.11(f) to clearly authorize staff to request comments on a pending advisory opinion request from experts or interested parties, similar to the practice of the Office of the Attorney General;
- Repealing §§8.17 and 8.18(4), which purported to give staff the authority to answer an advisory opinion request with a non-

binding letter from the executive director rather than providing an advisory opinion.

- Amending §8.21 to require that advisory opinions adopted by the TEC be posted on the TEC's website rather than a "single reference document."

James Tinley, General Counsel, has determined that for the first five-year period the proposed amended rules 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 public will benefit from clear rules that should result in uniform rules for requestors of advisory opinions.

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 regarding advisory opinions. 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; 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; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or 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, or mailed or delivered to J.R. Johnson, Executive Director, 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.

The amended rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 572 of the Government Code.

The proposed amended rules affect Chapter 572 of the Government Code.

§8.3. *Subject of an Advisory Opinion.*

{(a) The commission may only issue a written advisory opinion on the application of any of the following laws:}

~~[(1) Government Code, Chapter 302 (concerning Speaker of the House of Representatives);]~~

~~[(2) Government Code, Chapter 303 (concerning Governor for a Day and Speaker's Reunion Day Ceremonies);]~~

~~[(3) Government Code, Chapter 305 (concerning Registration of Lobbyists);]~~

~~[(4) Government Code, Chapter 572 (concerning Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest); (5) Government Code, Chapter 2004 (concerning Representation Before State Agencies);]~~

~~[(6) Local Government Code, Chapter 159, Subchapter C, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;]~~

~~[(7) Election Code, Title 15 (concerning Regulating Political Funds and Campaigns);]~~

~~[(8) Penal Code, Chapter 36 (concerning Bribery and Corrupt Influence);]~~

~~[(9) Penal Code, Chapter 39 (concerning Abuse of Office).]~~

~~[(10) Government Code, §2152.064 (concerning Conflict of Interest in Certain Transactions); and]~~

~~[(11) Government Code, §2155.003 (concerning Conflict of Interest).]~~

~~(a) [(b)] The commission may not issue an advisory opinion that concerns the same or substantially similar facts [subject matter] of pending litigation known to the commission.~~

~~(b) [(e)] For purposes of this section, the term litigation includes a sworn complaint proceeding before the commission if the request is made by a respondent or complainant or the agent of a respondent or complainant of pending sworn complaint [only if the Government Code Subchapters C–H, Chapter 200], applies to the proceeding.]~~

~~(c) [(d)] An advisory opinion cannot resolve a disputed question of fact.~~

§8.5. Persons Eligible To Receive an Advisory Opinion.

A person who is subject to one of the laws described in §571.091, Gov't Code [§8.3(a) of this chapter (relating to Subject of Advisory Opinions)] may request an opinion that advises how the law applies to that person in a specific real or hypothetical factual situation. Opinions may only address how the law applies to the requestor, not any other real or hypothetical person.

§8.11. Review and Processing of a Request.

(a) Upon receipt of a written request for an advisory opinion, the executive director shall determine whether the request:

(1) pertains to the application of a law specified under §571.091, Gov't Code [§8.3 of this chapter] ;

(2) meets the standing requirements of §8.5 of this chapter; and

(3) meets the form requirements of §8.7 of this chapter. [; and]

~~[(4) cannot be answered by written response under § 8.17 of this chapter by reference to the plain language of a statute, commission rule, or advisory opinion.]~~

(b) If the executive director determines that a request for an opinion meets the requirements of this chapter as set forth in subsections (a)(1) - (3) of this [section and that the request cannot be answered

by written response under §8.17 of this chapter], the executive director shall assign an AOR number to the request. The executive director shall notify the person making the request of the AOR number and of the proposed wording of the question to be answered by the commission.

(c) If the executive director determines that a request for an opinion does not meet the requirements of this chapter as set forth in subsections (a)(1) - (3) of this section [~~or that the request can be answered by written response under §8.17 of this chapter~~], the executive director shall notify the person making the request of the reason the person making the request is not entitled to an advisory opinion in response to the request.

(d) A person who requests an opinion may withdraw the request prior to its inclusion on a meeting agenda filed by the Commission pursuant to the Open Meetings Law. Once a request is included on such an agenda, it may not be withdrawn by the requestor.

(e) The executive director may submit written questions to the requestor to clarify the real or hypothetical facts submitted with the request.

(f) The executive director may invite comments regarding an advisory opinion request from individuals or entities that may have expertise or an interest in the subject of the request.

§8.18. No Defense to Prosecution or Civil Penalty.

A person who requests an advisory opinion does not obtain a defense to prosecution or to imposition of a civil penalty by requesting the opinion if any of the following apply:

(1) the commission is not authorized to answer the request because it does not pertain to the application of a law specified under §571.091, Gov't Code [§8.3 of this chapter];

(2) the request does not meet the standing requirements of §8.5 of this chapter; or

(3) the request does not meet the form requirements of §8.7 of this chapter. [; ~~or~~]

~~[(4) the executive director responds to the request by written response under §8.17 of this chapter.]~~

§8.21. Compilation of Advisory Opinions.

The executive director shall number and categorize each advisory opinion issued and publish the opinion on the commission's website. [~~and shall annually compile a summary of advisory opinions in a single reference document.~~] The executive director may publish and provide copies of advisory opinions in other formats as may be in the public interest.

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 January 8, 2025.

TRD-202500037

Jim Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: February 23, 2025

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



1 TAC §8.17

The Texas Ethics Commission (the TEC) proposes the repeal of Texas Ethics Commission rule §8.17 regarding Request Answered by Written Response.

State law requires state agencies to "review and consider for readoption each of its rules ... not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.* The TEC is authorized to adopt rules to administer Chapter 571 of the Government Code. Tex. Gov't Code §§ 571.061, .062.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding advisory opinions, which are codified in Chapter 8. The adoption of amendments to some rules and the repeal of one rule seeks to clarify the rules related to requests for advisory opinions.

Section 8.17 of the TEC rules authorized the executive director to issue a non-binding written letter if a question presented in an advisory opinion request is clearly answered by reference to a previous advisory opinion, statute, or rule. The option to issue a non-binding letter rather than an advisory opinion has not been exercised in recent years and is out-of-step with statute, which requires the TEC to issue an advisory opinion upon written request. After reviewing §8.17 the TEC determined the rule was not necessary and therefore proposes repeal of the rule.

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

The General Counsel has also determined that for each year of the first five years the proposed repealed rule is in effect, the public benefit will be consistency and clarity in the TEC's response to advisory opinion requests. 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 repealed rule.

The General Counsel has determined that during the first five years that the proposed repealed rule is in effect, they will not: create or eliminate a government program; 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; create a new regulation; increase or decrease the number of individuals subject to the rule's applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed repealed rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to J.R. Johnson, Executive Director, 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 repealed rule may do so at any Commission meeting during the agenda item relating to the proposed repealed 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.

The repealed rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 571 of the Government Code.

The proposed repealed rule affects Chapter 571 of the Government Code.

§8.17. *Request Answered by Written Response.*

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 January 8, 2025.

TRD-202500036

Jim Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: February 23, 2025

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



CHAPTER 13. REFERRALS TO PROSECUTORS

1 TAC §13.1

The Texas Ethics Commission (TEC) proposes new rule 1 Texas Administrative Code §13.1, concerning the referral of matters to prosecuting attorneys under Section 571.171(a) of the Texas Government Code.

This rule is being proposed in response to the CCA's recent decision in *Ex Parte Charette*, which held that a referral from the TEC is a jurisdictional prerequisite to the bringing of criminal charges against a political candidate for a violation of title 15 of the Election Code. The purpose of this rule is to provide information regarding the TEC's procedures for making criminal referrals as authorized by Section 571.171(a) of the Texas Government Code. TEC adopted an identical emergency rule on September 25, 2024.

Section-by-Section Summary

Subsection (a) clarifies the TEC's exercise of authority granted under section 571.171(a) of the Texas Government Code to refer matters to an appropriate prosecuting attorney for criminal prosecution upon a vote of at least six commission members.

Subsection (b) restates the requirement in section 571.134 of the Texas Government Code that certain referrals shall be delayed until (1) the day after election day; (2) the day after runoff election day if an ensuing runoff involving the alleged violator is held; or (3) the day after general election day if the election involved in the violation is a primary election and the alleged violator is involved in the succeeding general election.

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

The General Counsel has also determined that for each year of the first five years the proposed new rule is in effect, the public benefit will be clarity in how criminal referrals will be handed at the TEC. 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 new rule.

The General Counsel has determined that during the first five years that the proposed new rule is in effect, it will not: create or eliminate a government program; 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; or increase or decrease the number of individuals subject to the rule's applicability.

The Commission invites comments on the proposed new rule from any member of the public. A written statement should be emailed to 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 new rule may do so at any Commission meeting during the agenda item relating to the proposed new 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

Statutory Authority

This new rule is proposed under Texas Government Code §571.062, which authorizes the TEC to adopt rules to administer Chapter 571 of the Government Code.

The proposed new rule affects Chapter 571 of the Texas Government Code, including Section 571.062, and the laws placed under the civil enforcement jurisdiction of the TEC as identified in Section 571.061(a) of the Texas Government Code.

§13.1. Referral to Prosecuting Attorney.

(a) Under section 571.171 of the Government Code, the commission may vote to refer a matter related to a sworn complaint to the appropriate prosecuting attorney for criminal prosecution upon the commission accepting jurisdiction over the sworn complaint.

(b) A referral under subsection (a) of this section shall be delayed in accordance with section 571.134 of the Government Code.

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

Filed with the Office of the Secretary of State on January 8, 2025.

TRD-202500039

Jim Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: February 23, 2025

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



CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

SUBCHAPTER A. GENERAL RULES

1 TAC §20.1

The Texas Ethics Commission (TEC) proposes amendments to Texas Ethics Commission rules in Subchapter A of Chapter 20.

Specifically, the TEC proposes amendments to §20.1(17), regarding the definition of "principal purpose".

A political committee is defined by state law as "two or more persons acting in concert with a *principal purpose* of accepting political contributions or making political expenditures." Tex. Elec. Code § 251.001(12) (emphasis added). The TEC defined the term "principal purpose" for the purpose of defining whether a group is a political committee. Tex. Elec. Code § 251.001(12). The existing rule states that a group has a principal purpose of accepting political contributions or making political expenditures if 25 percent of its incoming funds are political contributions or 25 percent of its expenditures are political expenditures. The setting a bright-line activity threshold at 25 percent of a group's activity has proved unworkable and is contrary to how a similar federal law is interpreted for defining political committee status.

The amended rule avoids a bright-line approach based on a percentage of spending. Instead, it embraces the Federal Election Code (FEC) method of determining whether a group is a political committee by taking a holistic view of the group's activity to be adjudicated on a case-by-case basis. This approach has been upheld as constitutional by the Fourth Circuit. *Real Truth About Abortion, Inc. v. FEC*, 681 F.3d 544, 557-58 (4th Cir. 2012); see also *Citizens for Responsibility & Ethics in Washington v. FEC*, 209 F. Supp. 3d 77, 82 (D.D.C. 2016). Embracing the FEC approach will also allow the TEC and regulated community to more easily use the precedent set by FEC adjudications and federal court decisions to determine whether a group is a political committee. See Tex. Ethics Comm'n Op. No. 614 (2024).

James Tinley, General Counsel, has determined that for the first five-year period the proposed amended rule 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 clarity in the definition of "principal purpose" for use by political committees. 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, it will not: create or eliminate a government program; 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; or increase or decrease the number of individuals subject to the rule's applicability.

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, 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.

The amendment is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code.

The proposed amended rule affects Chapter 255 of the Election Code.

§20.1. *Definitions.*

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (16) (No change.)

(17) Principal purpose--A group has as a principal purpose of accepting political contributions or making political expenditures, including direct campaign expenditures, when that activity is an important or a main function of the group.

(A) A group may have more than one principal purpose. When determining whether a group has a principal purpose of accepting political contributions or making political contributions, the Commission may consider the full range of activities by the group and its members, including, but not limited to:

(i) public statements;

(ii) fundraising appeals;

(iii) government filings;

(iv) organizational documents; and

(v) the amount of political expenditures made and political contributions accepted by the group and its members.

(B) A group is presumed to be a political committee if the proportion of the group's political contributions to the total contributions to the group is 50 percent or more. [A group has as a principal purpose accepting political contributions if the proportion of the political contributions to the total contributions to the group is more than 25 percent within a calendar year. A contributor intends to make a political contribution if the solicitations that prompted the contribution or the statements made by the contributor about the contribution would lead to no other reasonable conclusion than that the contribution was intended to be a political contribution.]

(C) The group may maintain specific evidence of contributions related only to political contributions or only to nonpolitical contributions. For example, the group may ask the contributor to make an indication when the contribution is made that the contribution is only a nonpolitical contribution.

(D) A group is presumed to be a political committee if the proportion of the group's political expenditures to the total expenditures of the group is 50 percent or more. [A group has as a principal purpose making political expenditures, including direct expenditures, if the group expends more than 25 percent of its annual expenses to make political expenditures within a calendar year.] The following shall be included for purposes of calculating the proportion of a group's political expenditures to all other spending [threshold]:

(i) the amount of money paid in compensation and benefits to the group's employees for work related to making political expenditures;

(ii) the amount of money spent on political expenditures; and

(iii) the amount of money attributable to the proportional share of administrative expenses related to political expenditures. The proportional share of administrative expenses is calculated by comparing the political expenditures in clause (ii) with nonpolitical expenditures. (For example, if the group sends three mailings a year and each costs \$10,000, if the first two are issue-based newsletters and the third is a direct advocacy sample ballot, and there were no other [outside] expenditures, then the proportion of the administrative expenses attributable to political expenditures would be 33%.) Administrative expenses include:

(I) fees for services to non-employees;

(II) advertising and promotion;

(III) office expenses;

(IV) information technology;

(V) occupancy;

(VI) travel expenses;

(VII) interest; and

(VIII) insurance

(E) The group may maintain specific evidence of administrative expenses related only to political expenditures or only to nonpolitical expenditures. Specifically identified administrative expenses shall not be included in the proportion established by subparagraph (D)(iii) but allocated by the actual amount of the expense.

(F) In this section, the term "political expenditures" includes direct campaign expenditures.

(18) - (23) (No change.)

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

Filed with the Office of the Secretary of State on January 8, 2025.

TRD-202500040

Jim Tinley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: February 23, 2025

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



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §355.502, concerning Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers; §355.505, concerning Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program; §355.513, concerning Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program; §355.723, concerning Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs; and §355.725, concerning Reimbursement Methodology for Common Waiver Services in Home and Community-based Services (HCS) and Texas Home Living (TxHML).

BACKGROUND AND PURPOSE

The purpose of the proposal is to add in-home and out-of-home settings for home health care services (including nursing, occupational therapy, and physical therapy) to the reimbursement methodologies for Community Living Assistance and Support Services Waiver Program (CLASS), the Deaf-blind Multiple Disabilities (DBMD), Home and Community-based Services (HCS), and Texas Home Living (TxHmL) waiver programs. These amendments ensure compliance with the 21st Century Cures Act, which requires all states to implement the use of electronic visit verification (EVV).

The proposal also establishes the reimbursement methodology for employment readiness services in the DBMD, HCS, and TxHmL waiver programs in accordance with House Bill 4169, 88th Legislature, Regular Session, 2023.

SECTION-BY-SECTION SUMMARY

Edits to correct formatting, references, and punctuation are made throughout all the rules. Also, "speech/language therapy" is revised to "speech and language pathology" throughout the rules.

The proposed amendments to §355.502(b) and (d) clarify that nursing services, occupational therapy, and physical therapy are offered in both in-home and out-of-home settings under the umbrella of professional services.

The proposed amendments to §355.505(c)(4)(A) and subsection (c)(4)(A)(vii) clarify that nursing services, occupational therapy, and physical therapy are offered in both in-home and out-of-home settings under §1915(c) waiver programs.

The proposed amendment to §355.513(c)(5) clarifies that nursing services, occupational therapy, and physical therapy are offered in both in-home and out-of-home settings under the DBMD waiver program. Additionally, the proposed amendment adds the reimbursement methodology for employment readiness services. New paragraph (12) is added to describe the employment readiness payment rates. The remaining section is renumbered to account for the addition of a paragraph.

The proposed amendment to §355.723 clarifies that nursing services, occupational therapy, and physical therapy are offered in both in-home and out-of-home settings under the HCS and TxHmL programs. Additionally, the proposed amendment adds the reimbursement methodology for employment readiness services. The paragraphs under subsection (d) are renumbered to account for the addition of a paragraph.

The proposed amendment to §355.725 clarifies that nursing services, occupational therapy, and physical therapy are offered in both in-home and out-of-home settings under common waiver services.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

(3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;

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

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

(6) the proposed rules will not expand, limit, or repeal existing rules;

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

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

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

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

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rules are in effect, the public benefit will be appropriate reimbursement methodologies for the programs that use EVV to deliver home health care services and the newly-developed employment readiness services.

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to HHSC Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; 4601 W. Guadalupe Sreet, Austin, Texas 78751; or by email to PFD-LTSS@hhs.texas.gov.

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

indicate "Comments on Proposed Rule 24R067" in the subject line.

SUBCHAPTER E. COMMUNITY CARE FOR AGED AND DISABLED

1 TAC §§355.502, 355.505, 355.513

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

The amendments affect Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 32.

§355.502. *Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers.*

(a) General requirements. The Texas Health and Human Services Commission (HHSC) applies the general principles of cost determination as specified in §355.101 of this chapter [title] (relating to Introduction). Common services are those services that are available in multiple home and community-based services (HCBS) waivers.

(b) Professional services. Professional services include in-home and out-of-home nursing services provided by a registered nurse (RN) or a licensed vocational nurse (LVN) (including Adjunct Support and Respite in the Medically Dependent Children Program), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [~~speech/language therapy~~], cognitive rehabilitative therapy, nutrition/dietary services, audiology services, and behavioral support services.

(c) Employment services. Employment services include employment assistance and supported employment.

(d) Rates for professional services, employment services, and in-home respite. The rates for these services are calculated in the following manner.[:]

(1) If there is sufficient reliable cost report data from which to determine reimbursements, rates are calculated in the following manner.

(A) An allowable cost per unit of service for each cost report is calculated in accordance with the specific methodology for each HCBS waiver.

(B) The allowable cost per unit of service for each cost report for all HCBS waivers is combined into an array.

(C) The array of allowable costs per unit of service for all HCBS waivers is weighted by the number of units of service, and the median cost per unit of service is calculated.

(2) If there is not sufficient, reliable cost report data from which to determine reimbursements, reimbursements will be developed by using pro forma costing. This approach involves using historical costs of delivering similar services, where appropriate data are available, and estimating the basic types and costs of products and ser-

vices necessary to deliver services meeting federal and state requirements.

(3) In-home and out-of-home specialized [Specialized] nursing rates will be determined for both RN and LVN services by multiplying the RN and LVN rates by 1.15. The specialized nursing rate is paid when a client requires, as determined by a physician, daily skilled nursing to cleanse, dress, and suction a tracheostomy or daily skilled nursing assistance with ventilator or respirator care. The client must be unable to do self-care and require the assistance of a nurse for the ventilator, respirator, or tracheostomy care.

(e) Transition assistance services. The reimbursement for transition assistance services will be determined as a one-time rate per client based on modeled costs of compensation and other support costs using data from surveys, cost reports, consultation with other professionals in delivering contracted services, or other sources determined appropriate by HHSC.

§355.505. *Reimbursement Methodology for the Community Living Assistance and Support Services Waiver Program.*

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

(c) Waiver reimbursement determination methodology.

(1) Unit of service reimbursement or reimbursement ceiling by unit of service. Reimbursement or reimbursement ceilings for related-conditions waiver services, habilitation, nursing services provided by a registered nurse (RN), nursing services provided by a licensed vocational nurse (LVN), physical therapy, occupational therapy, speech and language pathology [~~speech/language therapy~~], behavioral support, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, day activity and health services, and in-home and out-of-home respite care services will be determined on a fee-for-service basis. These services are provided under §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(2) Monthly reimbursement. The reimbursement for case management waiver service will be determined as a monthly reimbursement. This service is provided under the §1915(c) of the Social Security Act Medicaid waiver for persons with related conditions.

(3) Reporting and verification of allowable cost.

(A) Providers are responsible for reporting only allowable costs on the cost report, except where cost report instructions indicate that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursements. HHSC excludes from reimbursement determination any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers; the purpose is to ensure that the database reflects costs and other information that are necessary for the provision of services and are consistent with federal and state regulations.

(B) Individual cost reports may not be included in the database used for reimbursement determination if:

(i) there is reasonable doubt as to the accuracy or allowability of a significant part of the information reported; or

(ii) an auditor determines that reported costs are not verifiable.

(4) Reimbursement determination. Recommended unit of service reimbursements and reimbursement ceilings by unit of service are determined in the following manner:

(A) Unit of service reimbursement for habilitation, and cost per unit of service for in-home and out-of-home nursing services

provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [speech/language therapy], behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, supported employment, and in-home and out-of-home respite care are determined in the following manner.[:]

(i) The total allowable cost for each contracted provider cost report will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) The total allowable cost is reduced by the amount of the administrative expense fee and requisition fee revenues accrued for the reporting period.

(iii) Each provider's total allowable cost, excluding depreciation and mortgage interest, is projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this chapter [title] (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Allowable administrative and facility costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's units of service to the amount of total waiver units of service.

(vi) Each provider's projected total allowable cost is divided by the number of units of service to determine the projected cost per unit of service.

(vii) For in-home and out-of-home nursing services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [speech/language therapy], in-home respite care, behavioral support services, auditory integration training/auditory enhancement training (audiology services), nutritional services, employment assistance, and supported employment, the projected cost per unit of service, for each provider is multiplied by 1.044. This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this chapter [title] (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(viii) For habilitation services two cost areas are created:

(I) The attendant cost area includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.112 of this chapter [title] (relating to Attendant Compensation Rate Enhancement).

(II) Another attendant cost area is created which includes the other habilitation services costs not included in subclause (I) of this clause as determined in clauses (i) - (v) of this subparagraph to

create an other attendant cost area. An allowable cost per unit of service is calculated for the other habilitation cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated. The median cost per unit of service is multiplied by 1.044.

(III) The attendant cost area and the other attendant cost area are summed to determine the habilitation attendant cost per unit of service.

(ix) For out-of-home respite care, the allowable costs per unit of service are calculated as determined in clauses (i) - (vi) of this subparagraph. The allowable costs per unit of service for each contracted provider cost report are multiplied by 1.044. The costs per unit of service are then arrayed and weighted by the number of units of service, and the median cost per unit of service is calculated.

(B) The monthly reimbursement for case management services is determined in the following manner:

(i) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report and other pertinent cost survey information.

(ii) Total allowable costs are reduced by the amount of administrative expense fee revenues reported.

(iii) Each provider's total allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost reporting period to the prospective reimbursement period as described in §355.108 of this title (relating to Determination of Inflation Indices).

(iv) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or social security, Medicare contributions, Workers' compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(v) Each provider's projected total allowable costs are divided by the number of monthly units of service to determine the projected cost per client month of service.

(vi) Each provider's projected cost per client month of service is arrayed from low to high and weighted by the number of units of service and the median cost per client month of service is calculated.

(vii) The median projected cost per client month of service is multiplied by 1.044.

(C) The unit of service reimbursement for day activity and health services is determined in accordance with §355.6907 (Relating to Reimbursement Methodology for Day Activity and Health Services).

(D) HHSC also adjusts reimbursement according to §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs) if new legislation, regulations, or economic factors affect costs.

(5) The reimbursement for support family services and continued family services will be determined as a per day rate using a method based on modeled costs which are developed by using data from surveys, cost report data from other similar programs, payment rates from other similar programs, consultation with other service

providers and/or professionals experienced in delivering contracted services, or other sources as determined appropriate by HHSC. The per day rate will have two parts, one part for the child placing agency and one part for the support family.

(d) - (j) (No change.)

§355.513. *Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program.*

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

(c) Waiver rate determination methodology. If HHSC deems it appropriate to require contracted providers to submit a cost report, recommended reimbursements for waiver services will be determined on a fee-for-service basis in the following manner for each of the services provided:

(1) Total allowable costs for each provider will be determined by analyzing the allowable historical costs reported on the cost report.

(2) Each provider's total reported allowable costs, excluding depreciation and mortgage interest, are projected from the historical cost-reporting period to the prospective reimbursement period as described in §355.108 of this title (relating to Determination of Inflation Indices). The prospective reimbursement period is the period of time that the reimbursement is expected to be in effect.

(3) Payroll taxes and employee benefits are allocated to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense for the appropriate group of staff. Employee benefits will be charged to a specific salary line item if the benefits are reported separately. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, Medicare Contributions, Workers' Compensation Insurance (WCI), the Federal Unemployment Tax Act (FUTA), and the Texas Unemployment Compensation Act (TUCA).

(4) Allowable administrative and overall facility/operations costs are allocated or spread to each waiver service cost component on a pro rata basis based on the portion of each waiver service's service units reported to the amount of total waiver service units reported. Service-specific facility and operations costs for out-of-home respite, and individualized skills and socialization services will be directly charged to the specific waiver service.

(5) For in-home and out-of-home nursing services provided by a registered nurse (RN), in-home and out-of-home nursing services provided by a licensed vocational nurse (LVN), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [~~speech/language therapy~~], behavioral support services, audiology services, dietary services, employment assistance, and supported employment, an allowable cost per unit of service is calculated for each contracted provider cost report in accordance with paragraphs (1) - (4) of this subsection. The allowable costs per unit of service for each contracted provider cost report is multiplied by 1.044. This adjusted allowable costs per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this title (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(6) Requisition fees are reimbursements paid to the Deaf-Blind with Multiple Disabilities (DBMD) Waiver contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for DBMD participants. Reimbursement for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the

adaptive aid, medical supply, dental service, and minor home modification. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys, cost report data from similar programs, consultation with other service providers or professionals experienced in delivering contracted services, or other sources.

(7) For residential habilitation transportation, chore, and intervener (excluding Interveners I, II, and III), services, two cost areas are created:

(A) The attendant cost area, which includes salaries, wages, benefits, and mileage reimbursement calculated as specified in §355.112 of this title (relating to Attendant Compensation Rate Enhancement).

(B) An administration and facility cost area, which includes costs for services not included in subparagraph (A) of this paragraph as determined in paragraphs (1) - (4) of this subsection. An allowable cost per unit of service is determined for each contracted provider cost report for the administration and facility cost area. The allowable costs per unit of service for each contracted provider cost report are arrayed. The units of service for each contracted provider cost report in the array are summed until the median unit of service is reached. The corresponding expense to the median unit of service is determined and is multiplied by 1.044.

(C) The attendant cost area, and the administration and facility cost area are summed to determine the cost per unit of service.

(8) For Interveners I, II, and III, payment rates are developed based on rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma approach in accordance with §355.105(h) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures). Interveners I, II, and III are not considered attendants for purposes of the Attendant Compensation Rate Enhancement described in §355.112 of this title, and providers are not eligible to receive direct care add-ons to the Intervener I, II, or III rates.

(9) Assisted living services payment rates are determined using a pro forma approach in accordance with §355.105(h) of this title. The rates are adjusted periodically for inflation. The room and board payments for waiver clients receiving assisted living services are covered in the reimbursement for these services and will be paid to providers from the client's Supplemental Security Income, less a personal needs allowance.

(10) Pre-enrollment assessment services and case management services payment rates are determined by modeling the salary for a Case Manager staff position. This rate is periodically updated for inflation.

(11) The orientation and mobility services payment rate is determined by modeling the salary for an Orientation and Mobility Specialist staff position. This rate is updated periodically for inflation.

(12) The employment readiness payment rates will initially be determined using a pro forma approach in accordance with §355.105(h) of this chapter. Once cost report data for this service are available, HHSC will calculate the methodological rate for employment readiness as a weighted median cost of the service from the most recently examined Medicaid cost report, adjusted for anticipated programmatic and staffing requirements, and inflated from the cost reporting year to the prospective rate year. The employment readiness rates will be rebased every biennium from the most recent projected cost report data. Adopted rates will be limited within available appropriations.

(13) [(42)] HHSC may adjust reimbursement if new legislation, regulations, or economic factors affect costs, according to §355.109 of this title (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs).

(d) - (h) (No change.)

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

Filed with the Office of the Secretary of State on January 7, 2025.

TRD-202500013

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 23, 2025

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



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

1 TAC §355.723, §355.725

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

The amendments affect Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 32.

§355.723. *Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs.*

(a) Prospective payment rates. The Texas Health and Human Services Commission (HHSC) sets payment rates to be paid prospectively to Home and Community-based Services (HCS) and Texas Home Living (TxHmL) providers.

(b) Levels of need.

(1) Variable rates. Rates vary by level of need (LON) for the following services:

- (A) employment readiness;
- (B) [(A)] host home/companion care (HH/CC);
- (C) [(B)] individualized skills and socialization;
- (D) [(C)] residential support services (RSS); and
- (E) [(D)] supervised living (SL).

(2) Non-variable rates. Rates do not vary by LON for the following services:

- (A) audiology;
- (B) behavioral support;
- (C) cognitive rehabilitative therapy (CRT);
- (D) community first choice personal assistance services/habilitation (CFC PAS/HAB);
- (E) community support services transportation (CSS);
- (F) dietary;
- (G) employment assistance (EA);
- (H) in-home respite;
- (I) in-home and out-of-home licensed vocational nurse (LVN);
- (J) in-home and out-of-home occupational therapy (OT);
- (K) out-of-home respite (OHR);
- (L) in-home and out-of-home physical therapy (PT);
- (M) in-home and out-of-home registered nurse (RN);
- (N) social work;
- (O) speech and language pathology [therapy];
- (P) supported employment (SE); and
- (Q) supported home living transportation (SHL).

(c) Recommended rates. The recommended payment rates are determined for each HCS and TxHmL service listed in subsections (b)(1) and (2) of this section by type and, for services listed in subsection (b)(1) of this section, by LON to include the following cost areas.

(1) Attendant compensation cost area. The determination of the attendant compensation cost area is calculated as specified in §355.112 of this chapter (relating to Attendant Compensation Rate Enhancement). The attendant compensation cost area includes personal attendant staffing costs (wages, benefits, modeled staffing ratios for attendant staff, direct care trainers, and job coaches).

(2) Other direct care cost area. The other direct care cost area includes other direct service staffing costs (wages and benefits for direct care and attendant supervisors). The other direct care cost area is determined by calculating a median from allowable other direct care costs for each service, weighed by units of service for the applicable service from the most recently examined HCS/TxHmL cost report adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter (relating to Determination of Inflation Indices).

(A) For the following services, multiply the other direct care cost area as specified in this paragraph by 1.044:

- (i) EA;
- (ii) in-home respite;
- (iii) OHR in a camp;
- (iv) OHR in a respite facility;
- (v) OHR in a setting where HH/CC is provided;
- (vi) OHR in a setting that is not listed; and
- (vii) SE.

(B) For the following services, multiply the other direct care cost area as specified in this paragraph by 1.07:

- (i) employment readiness;
- (ii) [(i)] individualized skills and socialization;
- (iii) [(ii)] in-home and out-of-home individualized skills and socialization;
- (iv) [(iii)] OHR in an individualized skills and socialization facility;
- (v) [(iv)] OHR in a setting with SL or RSS is provided;
- (vi) [(v)] RSS; and
- (vii) [(vi)] SL.

(3) Administration and operations cost area. The administration and operation cost area includes:

- (A) administration and operation costs; and
- (B) professional consultation and program support costs, including:
 - (i) allowable costs for required case management and service coordination activities; and
 - (ii) service-specific transportation costs.

(4) Projected costs. Projected costs are determined by allowable administrative and operations costs from the most recently audited cost report adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108 of this chapter. The steps to determine projected costs are as follows.

(A) Step 1. Determine total projected administration and operation costs and projected units of service by service type using cost reports submitted by HCS and TxHmL providers in accordance with §355.722 of this subchapter (relating to Reporting Costs by Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Providers).

(B) Step 2. Determine the HH/CC coordinator component of the HH/CC rate as follows: This component is determined by summing total reported HH/CC coordinator wages and allocated payroll taxes and benefits from the most recently available audited HCS cost report, inflating those costs to the rate period, and dividing the resulting product by the total number of host home units of service reported on that cost report.

(C) Step 3. Determine total HH/CC coordinator dollars as follows. Multiply the HH/CC coordinator component of the HH/CC rate from subparagraph (B) of this paragraph by the total number of HH/CC units of service reported on the most recently available, reliable audited HCS cost report database.

(D) Step 4. Determine total projected administration and operation costs after offsetting total HH/CC coordinator dollars as follows. Subtract the total HH/CC coordinator dollars from subparagraph (C) of this paragraph from the total projected administration and operation costs from subparagraph (A) of this paragraph.

(E) Step 5. Determine projected weighted units of service for each HCS and TxHmL service type as follows.

(i) SL and RSS in HCS. Projected weighted units of service for SL and RSS equal projected SL and RSS units of service times a weight of 1.00.

(ii) Individualized skills and socialization and employment readiness in HCS and TxHmL. Projected weighted units of service for individualized skills and socialization and employment readiness equal projected individualized skills and socialization and employment readiness units of service times a weight of 0.25.

(iii) HH/CC in HCS. Projected weighted units of service for HH/CC equal projected HH/CC units of service times a weight of 0.50.

(iv) SHL in HCS, high medical needs support in HCS, and CSS in TxHmL. For each service, projected weighted units of service equal projected units of service times a weight of 0.30.

(v) Respite in HCS and TxHmL. Projected weighted units of service for respite equal projected respite units of service times a weight of 0.20.

(vi) SE in HCS and TxHmL. Projected weighted units of service for SE equal projected units of service times a weight of 0.25.

(vii) Behavioral support in HCS and TxHmL. Projected weighted units of service for behavioral support equal projected behavioral support units of service times a weight of 0.18.

(viii) Audiology, CRT, OT, PT, and speech and language pathology [therapy] in HCS and TxHmL. Projected weighted units of service for audiology, CRT, OT, PT, and speech and language pathology [therapy] equal projected audiology, CRT, OT, PT, and speech and language pathology [therapy] units of service times a weight of 0.18.

(ix) Social work in HCS. Projected weighted units of service for social work equal projected social work units of service times a weight of 0.18.

(x) In-home and out-of-home nursing [Nursing] in HCS and TxHmL and high medical needs nursing in HCS. Projected weighted units of service for nursing and high medical needs nursing equal projected nursing and high medical needs nursing units of service times a weight of 0.25.

(xi) EA in HCS and TxHmL. Projected weighted units of service for EA equal projected EA units of service times a weight of 0.25.

(xii) Dietary in HCS and TxHmL. Projected weighted units of service for dietary equal projected dietary units of service times a weight of 0.18.

(F) Step 6. Calculate the total projected weighted units of service by summing the projected weighted units of service from subparagraph (E) of this paragraph.

(G) Step 7. Calculate the percent of total administration and operation costs to be allocated to the service type by dividing the projected weighted units for the service type from subparagraph (E) of this paragraph by the total projected weighted units of service from subparagraph (F) of this paragraph.

(H) Step 8. Calculate the total administration and operation cost to be allocated to the service type by multiplying the percent of total administration and operation costs allocated to the service type from subparagraph (G) of this paragraph by the total administration and operation costs after offsetting total HH/CC coordinator dollars from subparagraph (D) of this paragraph.

(I) Step 9. Calculate the administration and operation cost component per unit of service for each HCS and TxHmL service type by dividing the total administration and operation cost to be allo-

cated to that service type from subparagraph (H) of this paragraph by the projected units of service for that service type from subparagraph (A) of this paragraph.

(J) Step 10. The final recommended administration and operation cost area per unit of service for each HCS and TxHmL service type is calculated as follows.

(i) For the following services, multiply the administration and operation cost area from this subparagraph by 1.044:

- (I) CFC PAS/HAB;
- (II) CSS;
- (III) EA;
- (IV) in-home individualized skills and socialization;
- (V) in-home respite;
- (VI) OHR in a camp;
- (VII) OHR in a respite facility;
- (VIII) OHR in a setting where HH/CC is provided;
- (IX) OHR in a setting that is not listed;
- (X) SE; and
- (XI) SHL.

(ii) For the following services, multiply the administration and operation cost area from this subparagraph by 1.07:

- (I) employment readiness;
- (II) [(+)] individualized skills and socialization;
- (III) [(H)] in-home and out-of-home individualized skills and socialization;
- (IV) [(HH)] OHR in an individualized skills and socialization facility;
- (V) [(HV)] RSS; and
- (VI) [(V)] SL.

(5) The facility cost area. The facility cost area includes the following:

(A) room and board costs, including rent, mortgage interest, depreciation expenses, property taxes, property insurance, and food costs as defined in §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs), unless excluded if unallowable under Federal Medicaid rules; and

(B) non-room and board costs not already reimbursed through the monthly amount collected from the individual receiving services as defined in 26 TAC §565.27(a).

(6) The facility cost area is determined by calculating a median cost for each service using allowable facility costs, weighted by units of service for the applicable service from the most recently audited cost report, adjusted for inflation from the cost reporting period to the prospective rate period as specified in §355.108.

(A) For the following services, multiply the facility cost component by 1.044:

- (i) HH/CC;
- (ii) OHR in a camp;

(iii) OHR in a respite facility; and

(iv) OHR in a setting where HH/CC is provided.

(B) For the following services, multiply the facility cost component by 1.07:

(i) employment readiness;

(ii) [(+)] individualized skills and socialization;

(iii) [(+)] in-home and out-of-home DH;

(iv) [(+)] OHR in a DH or individualized skills and socialization facility;

(v) [(+)] OHR in a setting where SL or RSS are provided;

(vi) [(+)] RSS; and

(vii) [(+)] SL.

(d) Recommended payment rates are determined for each service by the following.

(1) CFC PAS/HAB. The recommended payment rate is calculated by summing the attendant compensation cost area and the administration and operations cost area as defined in subsection (c) of this section. The recommended rate for CFC PAS/HAB does not include a cost component for other direct care staffing costs.

(2) CRT. The recommended payment rate is developed based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(3) Employment readiness. The recommended rates will initially be determined using a pro forma approach in accordance with §355.105(h) of this chapter. Once cost report data for this service are available, the recommended rates will be calculated by summing the attendant compensation cost area, other direct care cost area, the administration and operations component, and the facility cost component as defined in subsection (c) of this section. Rates are adjusted for anticipated programmatic and staffing requirements for each level of need and inflated from the cost reporting year to the prospective rate year. Adopted rates will be limited within available appropriations.

(4) [(+)] HH/CC. The recommended payment rate is determined by summing the direct care worker component, HH/CC coordinator cost area, administration and operations component, and facility cost area. The direct care worker component is calculated using the median of allowable direct care worker costs, weighted by HH/CC units of service from the most recently examined cost report database. The result is adjusted for each LON. The HH/CC coordinator cost area and administration and operations components are calculated as determined in subsection (c) of this section. The facility cost area is calculated as determined in subsection (c) of this section but does not include room and board costs as defined in subsection (c)(5)(A) of this section. If HHSC lacks reliable cost report data, the rate is developed based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter.

(5) [(4)] In-home respite. The recommended payment rate is calculated by summing the attendant compensation cost area and the administration and operations component as defined in subsection (c) of this section.

(6) [(5)] Individualized skills and socialization. The recommended payment cost areas are adjusted using modeled staffing ratios to establish recommended rates for on-site and off-site rates by LON. The recommended rates are calculated by summing the attendant compensation cost area, other direct care cost area, the administration and operations component, and the facility cost component as defined in subsection (c) of this section. Transportation costs are calculated as a standalone component separate from the administration and operations component for off-site services. The enhanced staffing level one rate is equal to the LON 8 individualized skills and socialization off-site recommended rate. The enhanced staffing level two rate is modeled and assumes a one-staff-to-one-individual staffing ratio.

(7) [(6)] In-home and out-of-home nursing [Nursing] services provided by an RN, in-home and out-of-home nursing services provided by an LVN, in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [speech/language therapy], behavioral support services, audiology services, dietary services, EA, SE, and transition assistance services are determined based on §355.725 of this subchapter (relating to Reimbursement Methodology for Common Waiver Services in Home and Community-based Services (HCS) and Texas Home Living (TxHmL)).

(8) [(7)] OHR. The recommended payment cost areas may be adjusted using modeled direct care worker hour-per-unit ratios for similar services to calculate OHR rates that vary by setting where the service is provided. The recommended payment rates are calculated by summing the attendant compensation cost area, other direct care cost area, the administration and operations component, and the facility cost component as defined in subsection (c) of this section.

(9) [(8)] SHL and CSS. The recommended payment rates for SHL and CSS are calculated by summing the attendant compensation cost area and the administration and operations cost area as defined in subsection (c) of this section.

(10) [(9)] SL and RSS. The recommended payment cost areas are adjusted using modeled direct care worker hour-per-unit ratios updated by actual hours reported on the most recently audited cost report to calculate variable rates by LON. The recommended rates are calculated by summing the attendant compensation cost area, other direct care cost area, and the administration and operations component as defined in subsection (c) of this section. The facility cost area is calculated as determined in subsection (c) of this section but does not include room and board costs defined in subsection (c)(5)(A) of this section.

(11) [(10)] Social work. The recommended payment rate is calculated using the weighted median social worker hourly cost from the most recently audited cost report, and the administration and operations cost component as determined in subsection (c) of this section. If HHSC lacks reliable cost report data, the rate is developed based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter.

(e) Other sources of cost information. If HHSC has determined that there is not sufficient reliable cost report data from which to set reimbursements and reimbursement ceilings for waiver services, reimbursements and reimbursement ceilings will be developed by using rates for similar services from other Medicaid programs, data from surveys, cost report data from other similar programs, consultation with other service providers or professionals experienced in delivering contracted services, and similar sources. If HHSC has insufficient cost data, the recommended payment rate for each service is developed

based on payment rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma analysis in accordance with §355.105(h) of this chapter.

(f) Refinement and adjustment. Refinement and adjustment of the rate components and model assumptions will be considered, as appropriate, by HHSC. All adopted rates are limited to available levels of appropriated state and federal funds as defined in §355.201 of this chapter (relating to Establishment and Adjustment of Reimbursement Rates for Medicaid).

§355.725. *Reimbursement Methodology for Common Waiver Services in Home and Community-based Services (HCS) and Texas Home Living (TxHmL).*

(a) Common waiver services. For in-home and out-of-home nursing services provided by a registered nurse (RN), in-home and out-of-home nursing services provided by a licensed vocational nurse (LVN), in-home and out-of-home physical therapy, in-home and out-of-home occupational therapy, speech and language pathology [speech/language therapy], behavioral support services, audiology services, dietary services, employment assistance, and supported employment, an allowable cost per unit of service is calculated for each contracted provider in accordance with §355.723 of this title (relating to Reimbursement Methodology for Home and Community-Based Services (HCS) and Texas Home Living (TxHmL) Programs). This adjusted allowable cost per unit of service may be combined into an array with the allowable cost per unit of service of similar services provided by other programs in determining rates for these services in accordance with §355.502 of this title (relating to Reimbursement Methodology for Common Services in Home and Community-Based Services Waivers).

(b) Requisition fees. Requisition fees are reimbursements paid to the HCS and TxHmL contracted providers for their efforts in acquiring adaptive aids, medical supplies, dental services, and minor home modifications for HCS and TxHmL participants. Requisition fee reimbursement for adaptive aids, medical supplies, dental services, and minor home modifications will vary based on the actual cost of the adaptive aid, medical supply, dental service, and minor home modification. Reimbursements are determined using a method based on modeled projected expenses which are developed by using data from surveys; cost report data from similar programs; consultation with other service providers and/or professionals experienced in delivering contracted services; and/or other sources.

(c) Requisition fees unallowable costs. The actual cost of adaptive aids, medical supplies, dental services, and home modifications is not allowable for cost reporting purposes. Allowable labor costs associated with acquiring adaptive aids, medical supplies, dental services, and home modifications should be reported in the cost report. Any item purchased for participants in this program and reimbursed through a voucher payment system is unallowable. Refer to §355.103(b)(20)(K) of this title (relating to Specifications for Allowable and Unallowable Costs).

(d) Transition assistance services. The reimbursement for transition assistance services will be determined in accordance with §355.502(e) of this title.

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 January 7, 2025.
TRD-202500014



SUBCHAPTER J. PURCHASED HEALTH SERVICES
DIVISION 16. MEDICAID PROFESSIONAL SERVICES

1 TAC §355.8301

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §355.8301, concerning the Nurse Residency Program, in new Division 16, Medicaid Professional Services.

BACKGROUND AND PURPOSE

The purpose of the proposed new rule is to implement a Nurse Residency Program (NRP) to support increased retention of nurses through post-graduation and post-licensure residencies at Health-Related Institutions (HRIs). The proposed new rule describes the participation requirements and structure of the NRP.

Payments will be based on the number of registered nurses and licensed vocational nurses in formal nursing residencies using separate weighting factors as a fraction of the upper payment limit (UPL) for related fee-for-service (FFS) claims. The proposed new rule also describes the methodology used by HHSC to determine the amounts of the payments. HHSC will submit this program to the Centers for Medicare & Medicaid Services (CMS) for approval under the Texas state plan. The program is expected to be funded by intergovernmental transfers.

Currently, Texas has no Medicaid programs covering additional payments for post-graduation and post-licensure nursing residencies, and there are no similar national programs. HHSC is proposing this new rule based on the success of a CMS pilot program for advanced practice nurses that indicated nursing residencies beyond the minimum training for licensure improved nurse retention.

Conceptual Framework

Eligibility: Participating HRIs who choose to enroll in the program may be eligible for payments.

Reconciliation: HHSC will follow the methodology described in proposed new §355.8301(f) to reconcile the amount of non-federal funds expended under this section.

SECTION-BY-SECTION SUMMARY

Proposed new §355.8301(a) establishes the NRP and describes the goals of the program.

Proposed new §355.8301(b) defines key terms used in the section.

Proposed new §355.8301(c) describes the requirements of participation in the program, including the application process.

Proposed new §355.8301(d) describes the payment methodology used in the program and the process for collecting the non-federal share of the program funding. No state general revenue

funds are available for the program, and the non-federal share will be comprised of intergovernmental transfer funds.

Proposed new §355.8301(e) describes the notice requirements if there are changes in the operational organization of the participating entity.

Proposed new §355.8301(f) describes the process for reconciliation of intergovernmental transfer amounts and refunds if applicable.

Proposed new §355.8301(g) describes the timing for the distribution of NRP payments.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years the proposed rule is in effect, there is a possibility of fiscal implications to state government for payments to state-owned HRIs. However, participation in the Nurse Residency Program is voluntary and the non-federal share of the payments under the program will be provided by the state-owned HRIs participating in the program through intergovernmental transfers (IGTs). HHSC will then draw down the federal matching funds to issue the program payments. A fiscal impact to the state-owned HRIs may only occur if a state-owned HRI chooses to provide IGT to support the payments and such participation may yield a positive total fiscal impact to the state-owned HRIs. There is insufficient information to provide an estimate at this time because HHSC does not know which state-owned HRIs will choose to participate in the program. No general revenue will be used for payments made under this program.

There will be no fiscal impact on local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, or micro businesses, or rural communities to comply with the proposed rule because participation in the program is optional.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy. There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

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

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public will benefit from the adoption of the rule. The anticipated public benefit will be improved health outcomes because of reduced nursing turnover at participating institutions that care for Medicaid patients.

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

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist without government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC HEARING

A public hearing is scheduled for Tuesday, February 11, 2025, at 9:00 a.m. (Central Standard Time) online to receive public comments on the proposal. Persons requiring further information, special assistance, or accommodations should email AcuteCareSupplementalPayments@hhs.texas.gov.

Persons interested in attending may register for the public hearing at:

<https://attendee.gotowebinar.com/register/6525886726681148255>.

After registering, a confirmation email will be sent with information about joining the webinar.

HHSC will broadcast the public hearing. The broadcast will be archived for access on demand and can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>.

PUBLIC COMMENT

Written comments on the proposal may be submitted to HHSC, Mail Code H400, P.O. Box 13247, Austin, Texas 78711-3247, or by email to AcuteCareSupplementalPayments@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R009" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas

Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code, Chapter 32.

The new section implements Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 32. This proposal does not affect any other statutes, articles, or codes.

§355.8301. Nurse Residency Program.

(a) Introduction. This section establishes the Nurse Residency Program (NRP), wherein the Texas Health and Human Services Commission (HHSC) directs payments to eligible health-related institutions (HRIs) that serve Texas Medicaid fee-for-service patients. This section also describes the methodology used by HHSC to calculate and administer such payments. A provider is eligible for a payment under this section only if HHSC submits, and the Centers for Medicare & Medicaid Services (CMS) approves, a state plan amendment permitting HHSC to make payments under this section to eligible HRIs participating in the program.

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

(1) Fee-for-service (FFS)--A system of health insurance payment in which HHSC pays a fee to a health care provider through the contracted Medicaid claims administrator directly for each service rendered. For Texas Medicaid purposes, FFS excludes any service rendered under a managed care program through a managed care organization.

(2) Health-Related Institution (HRI)--A public institution named in Texas Education Code §63.002.

(3) Intergovernmental transfer (IGT)--A transfer of public funds from another state agency or a non-state governmental entity to HHSC.

(4) Medicaid payment gap--The difference between what commercial insurers are estimated to pay for the services and what Medicaid actually paid for the same services from the most recent FFS upper payment limit (UPL) demonstration.

(5) Nurse trainee--A graduate of an accredited Registered Nurse (RN) or Licensed Vocational Nurse (LVN) training program who is engaging in a preceptorship through an entity participating in the Nurse Residency Program.

(6) Nurse Residency Program--A formal Practice Transition Accreditation Program (PTAP) accredited onboarding program or preceptorship for a nurse trainee to observe and develop skills in the practice of nursing. This training must be directly overseen by a preceptor. The clinical portion must be at least 3 months in duration for LVN preceptorships and at least 6 months in duration for RN preceptorships or as otherwise specified by the PTAP.

(7) Participating entity--A healthcare organization that:

(A) fulfills the participation requirements in subsection (c) of this section; and

(B) meets the requirements for an eligible institution in subsection (d)(1) of this section.

(8) Preceptor--A licensed RN or LVN who practices in the clinical setting and directly supervises clinical learning experiences for a nurse trainee in that setting. A clinical preceptor assists in the evaluation of the nurse trainee during the experiences and in acclimating the student to the role of nurse. A clinical preceptor facilitates nurse

trainee learning according to the facility policy for clinical preceptorship.

(9) Program period--A period for which a participating entity may receive the NRP amounts described in this section. Each program period is equal to a state fiscal year (SFY) beginning September 1 and ending August 31 of the following year. The initial program period begins May 1, 2025, and ends August 31, 2025.

(10) Sponsoring governmental entity--A state or non-state governmental entity that agrees to transfer to HHSC some or all of the non-federal share of program expenditures under Subchapter J of this chapter.

(11) Total program value--The maximum amount available under the NRP for a program period, as determined by HHSC.

(c) Participation requirements. As a condition of participation, all eligible institutions participating in the program must allow for the following:

(1) An eligible institution must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period must be no less than 15 business days, and the final date of the enrollment period is at least nine days prior to the IGT notification.

(2) The participating entity is required to submit all requested information about the entity's residency programs consistent in a manner specified by HHSC.

(d) Payments for a participating entity.

(1) Eligible institutions. Payments under this subsection are limited to HRIs that have a Nurse Residency Program as defined in subsection (b) of this section. Eligible institutions must be enrolled in Medicaid and participate in Texas Medicaid FFS.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of program payments for NRP through a method approved by HHSC.

(B) A participating entity under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of an eligible institution's payment amount calculated in any paragraph under this subchapter, HHSC recalculates that specific participating entity's payment based on the amount of the non-federal share transferred.

(C) HHSC communicates suggested IGT responsibilities. Suggested IGT responsibilities are based on the maximum dollars to be available under the program for the program period as determined by HHSC. HHSC also communicates estimated revenues based on HHSC's suggested IGT responsibilities that each enrolled entity could earn through the NRP for the program period.

(D) HHSC issues an IGT notification to specify the date the IGT is requested to be transferred at least 14 business days before IGT transfers are due. HHSC publishes the IGT deadlines and all associated dates on the HHSC website.

(3) Payment Methodology. HHSC sums the professional services FFS Medicaid payment gap for all billed Medicaid claims from associated provider NPIs, not including anesthesia, dental, or pharmacy

codes, or radiology codes billed separately as professional or technical components. HHSC then:

(A) multiplies by a fixed weighting factor determined by the percentage of RNs participating in the program as compared to all RNs and LVNs participating in the program, and then multiplies the product by the number of RNs in residency during the program period for Component 1; and

(B) multiplies by a second fixed weighting factor determined by the percentage of LVNs participating in the program as compared to all LVNs and RNs participating in the program, and then multiplies the product by the number of LVNs in residency during the program period for Component 2.

(e) Changes in operation. If a participating entity closes voluntarily or ceases to provide services, the entity must notify the HHSC Provider Finance Department by email, hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days after closing or ceasing to provide services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(f) Reconciliation. HHSC reconciles the amount of the non-federal funds actually expended under this section during the program period with the amount of funds transferred to HHSC by a sponsoring governmental entity for that same period. If the amount of non-federal funds actually expended under this section is less than the amount transferred to HHSC, HHSC refunds the balance proportionally to how it was received.

(g) The two payments under this section will be made on a semi-annual basis.

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 January 10, 2025.

TRD-202500054

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 23, 2025

For further information, please call: (737) 230-0550



TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER A. SCOPE AND DEFINITIONS

22 TAC §131.2

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes an amendment to 22 Texas Administrative Code, Chapter 131, regarding the Organization and Administration of the Board, specifically §131.2, relating to Definitions.

BACKGROUND AND SUMMARY

Texas Occupations Code §1001.311 authorizes the Board to license an applicant that is not a resident of the State of Texas if the applicant holds a licensed issued by another jurisdiction and has met substantially equivalent licensure requirements to those in Texas. The Board is proposing rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §131.2 by adding necessary definitions for the reciprocal licensure process.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rule.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be allowing qualified applicants with licenses in another jurisdiction to have a streamlined reciprocal licensure process.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because no addition requirements are part of the proposed rule.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed rule is in effect, the agency has determined the following:

1. The proposed rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.
6. The proposed rule does not increase the number of individuals subject to the rule's applicability.
7. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

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

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, by email to rules@pels.texas.gov, sent by mail to 1917 S. Interstate 35, Austin, Texas 78741, or faxed to his attention at (512) 440-0417.

STATUTORY AUTHORITY

The proposed rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

§131.2. Definitions.

In applying the Texas Engineering Practice Act, the Professional Land Surveying Practices Act, and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a partic-

ular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

(1) ABET - ABET, Inc., formerly the Accreditation Board for Engineering and Technology.

(2) Acts - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001, and the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(3) Advisory Opinion - A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapter 1001, Texas Occupations Code, and/or board rules related to the practice of engineering.

(4) Agency or Board - Texas Board of Professional Engineers and Land Surveyors.

(5) ANSAC/ABET - Applied and Natural Science Accreditation Commission of ABET. Previously the Applied Science Accreditation Commission (ASAC) of ABET.

(6) Applicant - A person applying for a license or registration to practice professional engineering or land surveying or a firm applying for a certificate of registration to offer or provide professional engineering or land surveying services.

(7) Application - The forms, information, and fees necessary to obtain a license, registration, or certification issued by the Board.

(8) Complainant - Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.

(9) Construction estimate - As used in §1071.004, a depiction of a possible easement route for planning purposes.

(10) Contested case - A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.

(11) Direct supervision - The control over and detailed professional knowledge of the work prepared under the engineer or land surveyor's supervision. Direct Supervision entails that the engineer or land surveyor personally makes decisions or personally reviews and approves proposed decisions prior to their implementation and has control over the decisions either through physical presence or the use of communications devices. Direct Supervision entails that a land surveyor be able to give instructions for research of adequate thoroughness to support collection of relevant data, the placement of all monuments, and the preparation and delivery of all surveying documents.

(12) EAC/ABET - Engineering Accreditation Commission of ABET.

(13) EAOR number - An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.

(14) Electronic Seal - For the purposes of this Chapter, an electronic seal is a digital representation of a licensee or registrant's seal including, but not limited to, a digital scan of a physical seal.

(15) Electronic Signature - For the purposes of this Chapter, an electronic signature is a digital representation of a licensee or registrant's signature including, but not limited to, a digital scan of a physical signature.

(16) Engineering - The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.

(17) Engineering Act - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001.

(18) ETAC/ABET - Engineering Technology Accreditation Commission of ABET.

(19) Firm - Any business entity that engages or offers to engage in the practice of professional engineering or land surveying in this state. The term includes but is not limited to companies, corporations, partnerships, or joint stock associations, and for engineering also includes sole practitioners and sole proprietorships.

(20) Good Standing - (License or Registration) - A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.

(21) Gross negligence - Any deliberate conduct, or pattern of conduct, whether by act or omission that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.

(22) International NCEES Record - An official complication of professional credentials issued by NCEES as part of an international application process. The record includes academic credentials, exam or assessment information, employment information, professional references, and other information pertinent to licensure.

(23) [(22)] License - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(24) [(23)] License Holder - Any person whose license or registration to practice engineering or land surveying is current.

(25) [(24)] Misconduct - The violation of any provision of the Texas Engineering Practice Act, the Professional Land Surveying Act, or board rules.

(26) Mobility Agreement / Mutual Recognition Agreement - an agreement signed and adopted by the Board and another licensing jurisdiction or recognized licensing organization that sets out requirements and procedures for licensure between the two bodies.

(27) Model Law Engineer (MLE) - a designation on an NCEES Record indicating that an engineer has met the NCEES standard for licensure, including an EAC/ABET accredited engineering degree, a minimum of four years of creditable and acceptable engineering experience, passage of both the FE and PE examinations, and no disciplinary action.

(28) [(25)] NAFTA - North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.

(29) [(26)] NCEES - National Council of Examiners for Engineering and Surveying.

(30) NCEES Record - An official verified compilation of professional credentials issued by NCEES, designed to simplify the licensure process for engineers and surveyors who want to practice in multiple states or territories. The record includes academic transcripts,

exam results, employment history, professional references, and other information pertinent to licensure.

(31) [(27)] Person - Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a governmental agency.

(32) [(28)] Professional engineering - Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(33) [(29)] Professional Engineering Services - Services which meet the definition of the practice of engineering as defined in the Act, §1001.003, and which are required by statute or rule to be performed by or under the direct supervision of a licensed engineer. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathematical, physical or engineering sciences to that service are also considered a professional engineering service.

(34) [(30)] Professional Surveying - The practice of land, boundary, or property surveying or other similar professional practices.

(35) [(31)] Recognized institution of higher education - An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the North Central Association Commission on Accreditation and School Improvement, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.

(36) [(32)] Registration - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(37) [(33)] Respondent - The person or party that is the subject of a complaint filed with the board.

(38) [(34)] Responsible charge - Synonymous with the term "direct supervision"; used interchangeably with "direct supervision".

(39) [(35)] Responsible supervision - An earlier term synonymous with the term "direct supervision;" the term is still valid and may be used interchangeably with "direct supervision" when necessary.

(40) [(36)] Seal - An embossed, stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice engineering or land surveying services to the public in the State of Texas and has legal consequence when applied.

(41) [(37)] Sole Practitioner - A firm that consists of an individual license holder with no other employees.

(42) [(38)] Supervision of Engineering Construction - As used in §1001.407 of the Act, includes the periodic observation of

materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

(43) [(39)] Surveying Act - the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(44) [(40)] Surveying Report - Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.

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 January 8, 2025.

TRD-202500032

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: February 23, 2025

For further information, please call: (512) 440-3080



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 148. SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§148.41 - 148.43, 148.45, 148.48, 148.50 - 148.55

The Texas Board of Pardons and Paroles proposed amendments to 37 TAC Chapter 148, §§148.41, 148.42, 148.43, 148.45, 148.48, 148.50, 148.51, 148.52, 148.53, 148.54, 148.55 concerning sex offender conditions of parole or mandatory supervision. The amendments to §§148.45, 148.47, 148.48 and 148.50 are proposed to provide edits for uniformity and consistency throughout the rules; and to clarify Board requirements concerning ex parte consultations and witnesses in the sex offender conditions hearing process.

Marsha Moberley, 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.

Ms. Moberley also has determined that during 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 the effective administration of sex offender conditions hearings. There will be no effect on small businesses, micro-businesses or rural areas. 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, Section 2006.001(2).

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

The amended rules are proposed under §§508.036(b), 508.0441, 508.045, and 508.228, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings. Section 508.228 authorizes a parole panel to impose sex offender conditions after a hearing for offenses where a sex offense occurred during the commission of the offense.

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

§148.41. Public Hearings.

(a) All hearings on matters not confidential or privileged by law, or both, shall be open to the public.

(b) Appropriate federal and state constitutional provisions, statutes, regulations, and judicial precedent establishing the confidential or privileged nature of the information presented shall be given effect by the Hearing Officer.

(c) To give effect to subsection (b) of this section [this provision], the Hearing Officer shall have the authority to close the hearing to the extent necessary to protect against the improper disclosure of confidential and/or privileged information.

§148.42. Authority of Hearing Officers.

- (a) A Hearing Officer shall have the following authority:
- (1) to administer oaths;
 - (2) to examine witnesses;
 - (3) to rule on the admissibility of evidence;
 - (4) to rule on motions and objections;
 - (5) to recess any hearing from time to time and place to place;
 - (6) to reopen, upon request of a parole panel, or reconvene, or both, any hearing;
 - (7) to issue on behalf of the Board subpoenas and other documents authorized by and signed by a Board Member in accordance with statutory authority;

(8) to maintain order and decorum throughout the course of any proceedings;

(9) to collect documents and exhibits comprising the record of the hearing;

(10) to prepare the report of the hearing for [to] the parole panel to make final [for] disposition of the case; and

(11) to determine the weight to be given to particular evidence or testimony and to determine the credibility of witnesses.

(b) If a Hearing Officer fails to complete an assigned case, another Hearing Officer may complete the case without the necessity of duplicating any duty or function performed by the previous Hearing Officer.

§148.43. Ex Parte Consultations.

Unless required for the disposition of matters authorized by law, Hearing Officers, Board Members, and Parole Commissioners assigned to render a decision [in a matter] may not [communicate,] directly or indirectly, initiate, permit, nor consider communications in connection with any issue of fact or law with any party, except on notice and opportunity for all parties to participate.

§148.45. Witnesses.

(a) The Hearing Officer may determine whether a witness may be excused under the rule that excludes witnesses from the hearing.

(1) In no event shall the Hearing Officer exclude from the hearing a party under the authority of this section. For these purposes, the term "party" means the definition in §141.111 of this title (relating to Definition of Terms) and includes:

- (A) the releasee;
- (B) the releasee's attorney; and

(C) no more than one representative of the Division who has acted or served in the capacity of supervising, advising, or agent officer in the case.

(2) When [In the event that it appears to the satisfaction of] the Hearing Officer determines that an individual who is present at the hearing and intended to be called by a party as a witness has no relevant, probative, noncumulative testimony to offer on any material issue of fact or law, then the Hearing Officer, in their his sound discretion, may determine that such individual should not be placed under the rule and excluded from the hearing.

(b) All witnesses who testify in person are subject to cross-examination unless the Hearing Officer specifically finds good cause for lack of confrontation and cross-examination.

(c) Witnesses personally served with a subpoena and who fail to appear at the hearing may present testimony by written statement [; and] upon a favorable good cause determination [determined] by the Hearing Officer [; may present testimony by written statement].

§148.48. Record.

(a) The record in any case includes all pleadings, motions, and rulings; evidence received or considered; matters officially noticed; questions and offers of proof, objections, and rulings on them; all relevant Division documents, staff memoranda, or reports submitted to or considered by the Hearing Officer involved in making the decision; and any decision, opinion, or report by the Hearing Officer presiding at the hearing.

(b) All hearings shall be electronically recorded in their entirety.

(c) The hearing record is made a part of the official parole record maintained by the [TDCJ Parole] Division. All requests for copies of the hearing report or hearing recording shall be addressed to the [TDCJ Parole] Division.

§148.50. *Procedure after Waiver of Hearing.*

(a) The parole panel may accept a waiver of the hearing provided that a waiver of the hearing includes the following:

(1) information that the releasee was served with written notice of the following:

(A) notice of the right to a hearing, the purpose of which is to determine whether sex offender conditions may be imposed as a special condition of the release;

(B) notice of the right to full disclosure of the evidence;

(C) notice that the releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(D) notice that the releasee has the right to confront and cross-examine witnesses unless the parole panel or designee of the Board specifically finds good cause is shown;

(E) notice that the matter will be heard by an impartial decision-maker; and

(F) the opportunity to waive in writing the right to a hearing.

(2) information the Division relied upon to identify the releasee as a sex offender.

(b) After reviewing the waiver of the right to a sex offender condition hearing and receipt of supporting documentation of evidence of the releasee's sexually [sexual] deviant behavior in the offense for which the releasee is currently on supervision, the parole panel or designee of the Board must determine that, by a preponderance of the evidence, the releasee constitutes a threat to society by reason of their [his/her] lack of sexual control. The parole panel shall make final disposition of the case by taking one of the following actions:

(1) impose sex offender conditions; or

(2) deny the imposition of sex offender conditions.

§148.51. *Scheduling of Hearing.*

Upon request, the Board or the Board's scheduling staff shall schedule the hearing unless:

(1) fewer than seven (7) calendar days have elapsed from the time the releasee received notice; 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 hearing, the purpose of which is to determine whether sex offender conditions may be imposed as a special condition of the release;

(B) notice of the right to full disclosure of the evidence;

(C) notice that the releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(D) notice that the releasee has the right to confront and cross-examine witnesses unless the parole panel or designee of the Board [Hearing Officer] specifically finds good cause is shown;

(E) notice that the matter will be heard by an impartial decision-maker; and

(F) opportunity to waive in writing the right to a hearing.

§148.52. *Hearing.*

(a) The designee of the Board shall conduct the hearing for the purpose of determining whether sex offender conditions may be imposed as a special condition of release.

(b) The designee of the Board must determine, as shown by a preponderance of the evidence, that the releasee constitutes a threat to society by reason of their [his/her] lack of sexual control.

(c) At the close of the hearing, or within a reasonable time thereafter, the designee of the Board shall collect, prepare, and forward to the parole panel:

(1) all documents;

(2) a summary report of the hearing with a written statement as to the evidence relied upon to make a finding or no finding that the releasee constitutes a threat to society by reason of their [his/her] lack of sexual control; and

(3) the recording of the hearing.

§148.53. *Final Board Disposition.*

(a) After reviewing the evidence in the summary report of the hearing, the parole panel shall make final disposition of the case by taking one of the following actions:

(1) impose sex offender conditions; or

(2) deny imposition of the sex offender condition [conditions].

(b) The releasee or attorney shall be notified in writing of the Board's disposition and provided a copy of the summary report of the hearing and notice of the right to submit a petition to reopen the hearing.

§148.54. *Releasee's Motion to Reopen Hearing.*

(a) The releasee or releasee's attorney shall have 30 days from the date of the parole panel's decision to request a reopening of the case for any substantial error in the process.

(b) A request to reopen the hearing submitted later than 30 days from the date of the parole panel's decision will not be considered unless under exceptional circumstances including but not limited to:

(1) a judicial order requiring a hearing;

(2) the initial decision was made without the opportunity for a hearing or waiver.

(c) Any such request for reopening made under this section must be in writing and delivered to the Board or placed in the United States mail and addressed to the Texas Board of Pardons and Paroles, General Counsel, 8610 Shoal Creek Blvd., Austin, Texas 78757.

(d) On transmittal, a parole panel designated by the Chair other than the original parole panel shall dispose of the motion by:

(1) granting [of] the motion and ordering that the hearing be reopened for a stated specified and limited purpose;

(2) denial of the motion; or

(3) reversal of the parole panel decision previously entered.

(e) The releasee and attorney, if any, shall be notified in writing of the parole panel's decision.

(f) When a releasee's motion to reopen the hearing under this section is granted, the releasee shall be deemed to have consented to

such further reasonable delay in the final disposition of their [his or her] case as shall be required for the procedure under §148.55 of this title (relating to Procedure after Motion to Reopen Is Granted; Time; Rights of the Releasee; Final Disposition).

§148.55. *Procedure after Motion to Reopen Is Granted; Time; Rights of the Releasee; Final Disposition.*

(a) When the parole panel disposes of a releasee's motion to reopen under §148.54 of this title (relating to Releasee's Motion to Reopen Hearing) by granting the [said] motion to reopen the hearing, the case shall be disposed of or referred to a parole panel or designee of the Board for final disposition in accordance with this section and the previous disposition of the case made by the parole panel under §148.53 of this title (relating to Final Board Disposition), shall be set aside, and shall be of no force and effect.

(b) The purpose of the further proceedings before the parole panel or designee of the Board under this section shall be as specified by the parole panel in its order granting the releasee's motion to reopen pursuant to §148.54 of this title.

(c) When the parole panel or designee of the Board convenes the reopening of the hearing, it shall have before it the entire record previously compiled in the case, including:

(1) the record, report, and decision of the hearing under §148.52 of this title (relating to Hearing) collected or prepared by the parole panel or designee of the Board originally assigned to the case;

(2) any amendments, supplements, or modifications of the record, report, or decision as developed through prior reopenings of the case;

(3) the releasee's motion to reopen the hearing pursuant to §148.54 of this title; and

(4) any transmittal submitted to the parole panel with the recommendation from Board staff. Any transmittal submitted to the parole panel by the General Counsel constitutes legal advice that [which] is confidential under law[.] and shall not be released to the public as part of the hearing packet.

(d) At the conclusion of the proceedings before the parole panel or designee of the Board, or within a reasonable time thereafter, the parole panel shall make final disposition of the case by taking one of the following actions in any manner warranted by the evidence:

(1) continue the parole panel's action; or

(2) withdraw the imposition of the special conditions [condition].

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 January 13, 2025.

TRD-202500072

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: February 23, 2025

For further information, please call: (512) 406-5478



CHAPTER 150. MEMORANDUM OF UNDERSTANDING AND BOARD POLICY STATEMENTS

SUBCHAPTER A. PUBLISHED POLICIES OF THE BOARD

37 TAC §150.55

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 150, §150.55 concerning Conflict of Interest Policy. The amendments to §150.55 are proposed to provide edits for clarity and to correct titles.

Marsha Moberley, 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.

Ms. Moberley also has determined that during the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to promote consistency and uniformity in the Board's rules. There will be no effect on small businesses, micro-businesses or rural areas. 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, Section 2006.001(2).

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

The amended rules are proposed under Subtitle B, Ethics, Chapter 572 and Sections §§508.0441 and 508.035, Government Code. Subtitle B, Ethics, Chapter 572 is the ethics policy of this state for state officers or state employees. Section 508.0441 requires the Board to implement a policy which, clearly defines under what circumstances a Board member or parole commissioner should disqualify themselves on parole or mandatory supervision decisions. Section 508.035, Government Code requires the Presiding Officer to establish policies and procedures to further the efficient administration of the business of the Board.

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

§150.55. *Conflict of Interest Policy.*

(a) Section 1--Policy.

(1) It is the policy of the Board that no Board Member or Parole Commissioner shall have any interest, financial or otherwise, direct or indirect; or engage in any business transaction or professional activity or incur any obligation [~~obligations~~] of any nature that is in substantial conflict with the proper discharge of their duties in the public interest. In implementing this policy, they are provided the following standards of conduct, disclosure, and disqualification to be observed in the performance of their official duties.

(2) A Board Member or Parole Commissioner shall respect and comply with the law and not allow their family, social, or other relationships to influence their conduct, decisions, or judgment.

(b) Section 2--Disclosure.

(1) A Board Member or Parole Commissioner shall submit generally, and on a case-by-case basis, written notice to the Presiding Officer (Chair) of any substantial interest held by the Board Member or Parole Commissioner in a business entity doing business with the Board of Criminal Justice, TDCJ, or the Board.

(2) A Board Member or Parole Commissioner having a personal or private interest in any measure, proposal, or decision pending before the Board (including parole and discretionary mandatory supervision release decisions) shall immediately notify the Chair in writing of such interest. The Chair shall publicly disclose the Board Member's or Parole Commissioner's interest to the Board in a meeting of the Board. The Board Member or Parole Commissioner shall not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes or official record of the meeting.

(3) A Board Member or Parole Commissioner shall consider the possibility that they have a conflict of interest before making any decision or vote.

(4) If a Board Member or Parole Commissioner is uncertain whether any part of the conflict-of-interest policy applies to them in a specific matter, they shall request the General Counsel of the Board to determine whether a disqualifying conflict of interest exists.

(c) Section 3--Standards of Conduct.

(1) No Board Member or Parole Commissioner shall accept or solicit any gift, favor, or service that may reasonably tend to influence them in the discharge of their official duties or that they know or should know is being offered with the intent to influence their official conduct.

(2) No Board Member or Parole Commissioner shall accept employment or engage in any business or professional activity which they might reasonably expect would require or induce them to disclose confidential information acquired by reason of their official position [~~duties~~].

(3) No Board Member or Parole Commissioner shall accept other employment or compensation that could reasonably be expected to impair their independence of judgment in the performance of their official duties.

(4) No Board Member or Parole Commissioner shall make personal investments that could reasonably be expected to create a substantial conflict between their private interest and the public interest.

(5) No Board Member or Parole Commissioner shall intentionally or knowingly solicit, accept, or agree to accept any benefit for

having exercised their official powers or performed their official duties in favor of another.

(d) Section 4--~~Recusal and Disqualification~~.

(1) Recusal [~~Disqualification~~]. A Board Member shall recuse himself from voting on all clemency matters, and a Board Member or Parole Commissioner shall recuse himself from voting on all decisions to release on parole or discretionary mandatory supervision, and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) they know that individually or as a fiduciary, they have an interest in the subject matter before them; or

(B) the Board Member or Parole Commissioner or their spouse is related by affinity or consanguinity within the third degree to a person who is the subject of the decision before them.

(2) Disqualification [~~Recusal~~]. A Board Member shall disqualify himself from voting on all clemency matters, and a Board Member or Parole Commissioner shall disqualify himself from voting on all decisions to release on parole or discretionary mandatory supervision, and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) their impartiality might reasonably be questioned;

(B) they have a personal bias or prejudice concerning the subject matter or person in the decision before them; or

(C) they were a complainant, a material witness, or served as counsel for the state or the defense in the prosecution of the subject of the parole decision or revocation decision before them.

(e) Section 5--Documentation.

(1) A Board Member or Parole Commissioner shall notify the Chair and General Counsel in writing when they recuse or disqualify [~~or recuse~~] themselves from voting;

(2) A Board Member or Parole Commissioner shall provide the specific reason for disqualification or recusal;

(3) A Board Member or Parole Commissioner shall document the recusal or disqualification on the minute sheet of the offender's file; and

(4) A Board Member or Parole Commissioner shall place the written notification in the offender's file.

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 January 13, 2025.

TRD-202500073

Bettie Wells

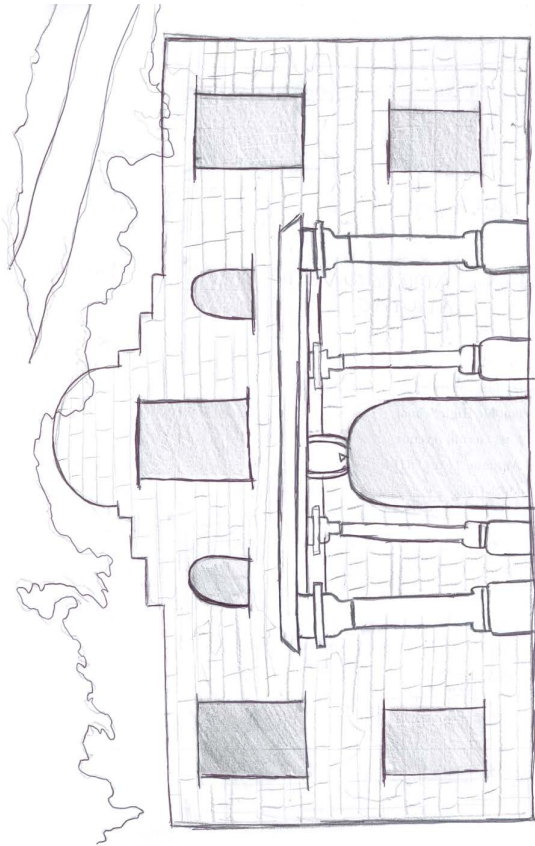
General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: February 23, 2025

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 2. TEXAS ETHICS COMMISSION

CHAPTER 40. FINANCIAL DISCLOSURE FOR PUBLIC OFFICERS

1 TAC §40.5

The Texas Ethics Commission withdraws proposed new §40.5 which appeared in the November 1, 2024, issue of the *Texas Register* (49 TexReg 8629).

Filed with the Office of the Secretary of State on January 8, 2025.

TRD-202500035

Jim Tinley

General Counsel

Texas Ethics Commission

Effective date: January 8, 2025

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



TITLE 7. BANKING AND SECURITIES

PART 2. TEXAS DEPARTMENT OF BANKING

CHAPTER 33. MONEY SERVICES BUSINESSES

7 TAC §33.81

Proposed new §33.81, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4871), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500051



TITLE 10. COMMUNITY DEVELOPMENT

PART 5. OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM OFFICE

CHAPTER 184. SPORTS AND EVENTS TRUST FUND

SUBCHAPTER A. AUTHORITY AND APPLICABILITY, PURPOSE, CONSTRUCTION OF RULES AND GENERAL DEFINITIONS

10 TAC §§184.1 - 184.4

The proposed repeal of §§184.1 - 184.4, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500055



SUBCHAPTER B. MAJOR EVENTS REIMBURSEMENT PROGRAM DEFINITIONS, ELIGIBILITY, PARTICIPATION AND DEADLINES

10 TAC §§184.10 - 184.13

The proposed repeal of §§184.10 - 184.13, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500056



SUBCHAPTER C. EVENTS TRUST FUND PROGRAM DEFINITIONS, ELIGIBILITY, PARTICIPATION AND DEADLINES

10 TAC §§184.20 - 184.23

The proposed repeal of 10 TAC §§184.20 - 184.23, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500057



SUBCHAPTER D. REQUIRED REPORTS

10 TAC §§184.30 - 184.33

The proposed repeal of §§184.30 - 184.33, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500058



SUBCHAPTER E. DISBURSEMENT PROCESS

10 TAC §§184.40 - 184.45

The proposed repeal of §§184.40 - 184.45, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500059



SUBCHAPTER F. EVENT SUPPORT CONTRACTS

10 TAC §184.50, §184.51

The proposed repeal of §184.50 and §184.51, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4872), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500060



CHAPTER 184. SPORTS AND EVENTS TRUST FUND

SUBCHAPTER A. APPLICABILITY AND CONSTRUCTION OF RULES, GENERAL DEFINITIONS AND REQUIREMENTS

10 TAC §§184.1 - 184.3

Proposed new §§184.1 - 184.3, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500061



SUBCHAPTER B. GENERAL REQUIREMENTS: MAJOR EVENTS REIMBURSEMENT PROGRAM

10 TAC §§184.10 - 184.13

Proposed new 10 TAC §§184.10 - 184.13, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500062



SUBCHAPTER C. GENERAL REQUIREMENTS: EVENTS TRUST FUND PROGRAM

10 TAC §§184.20 - 184.22

Proposed new §§184.20 - 184.22, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500063



SUBCHAPTER D. REQUIRED REPORTS

10 TAC §184.30, §184.31

Proposed new §184.30 and §184.31, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500064



SUBCHAPTER E. DISBURSEMENT PROCESS

10 TAC §§184.40 - 184.45

Proposed new §§184.40 - 184.45, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of

publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500065



SUBCHAPTER F. EVENT SUPPORT CONTRACTS

10 TAC §184.50, §184.51

Proposed new §184.50 and §184.51, published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4875), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 5, 2025.

TRD-202500066



**TITLE 30. ENVIRONMENTAL QUALITY
PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES
SUBCHAPTER A. DEFINITIONS**

30 TAC §§114.1, 114.2, 114.7

Proposed amended §§114.1, 114.2, 114.7, published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4689), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on January 10, 2025.

TRD-202500047



SUBCHAPTER C. VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT

PROGRAM; AND EARLY ACTION COMPACT COUNTIES

DIVISION 1. VEHICLE INSPECTION AND MAINTENANCE

30 TAC §§114.50, 114.51, 114.53

Proposed amended §§114.50, 114.51, and 114.53, published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4688), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500048



DIVISION 2. LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

30 TAC §§114.60, 114.64, 114.66, 114.72

Proposed amended §§114.60, 114.64, 114.66, 114.72, published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4688), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500049



DIVISION 3. EARLY ACTION COMPACT COUNTIES

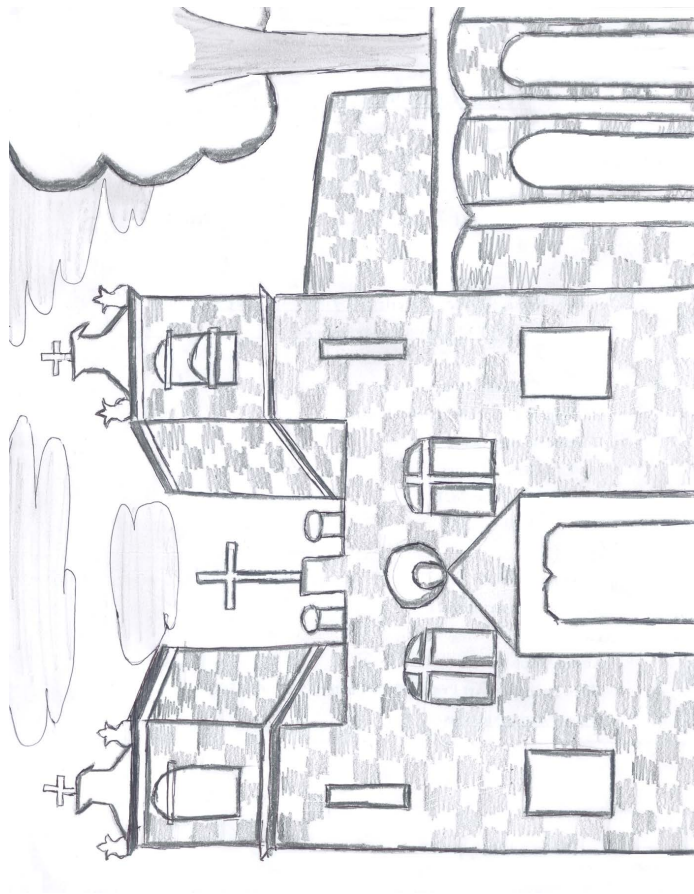
30 TAC §§114.80, 114.81, 114.82, 114.84, 114.87

Proposed amended §§114.80, 114.81, 114.82, 114.84, 114.87, published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4688), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 10, 2025.

TRD-202500050





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354. MEDICAID HEALTH SERVICES

SUBCHAPTER F. PHARMACY SERVICES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §354.1832 and §354.1921, concerning Vendor Drug Program.

Section 354.1832 and §354.1921 are adopted without changes to the proposed text as published in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7146). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adopted rules implement House Bill (H.B.) 3286 and Senate Bill (S.B.) 241, 88th Legislature, Regular Session, 2023.

H.B. 3286 amended the Texas Government Code to add §531.0691, creating a new process for the Medicaid pharmacy benefit in which the Vendor Drug Program (VDP) will add drugs to the formulary on a provisional basis. H.B. 3286 also amended Texas Government Code Chapter 533 to add §533.071 which elaborates on an existing process in the Medicaid managed care program regarding Preferred Drug List (PDL) exceptions and when a non-preferred drug can be used by listing these exceptions. Section 533.071 also added new PDL exceptions.

S.B. 241 amended Texas Health and Safety Code Chapter 439 to add new Subchapter D, §439.102. Texas Health and Safety Code §439.102(a) requires a manufacturer of a brand name insulin prescription drug for which a generic or biosimilar prescription drug is not available and is included in the Medicaid VDP formulary, to submit to HHSC a written verification stating whether or not the unavailability of the generic or biosimilar prescription drug is the result, wholly or partly, (1) of a scheme by the manufacturer to pay a generic or biosimilar prescription drug manufacturer to delay manufacturing or marketing the generic or biosimilar drug; (2) a legal or business strategy to extend the life of a patent on the brand name prescription drug; (3) the manufacturer directly manipulating a patent on the brand name prescription drug; or (4) the manufacturer directly manipulating an action described in reasons (1)-(3) of this sentence on behalf of another entity.

Texas Health and Safety Code §439.102(b) requires HHSC to adopt rules that prescribe the form and manner for submission of the written verification required by §439.102(a). COMMENTS

The 31-day comment period ended October 14, 2024. During this period, HHSC received comments regarding the proposed rules from two commenters, the Texas Association of Health Plans and one individual. A summary of comments relating to the rules and HHSC's responses follows.

Comment: One commenter requested changes in proposed §354.1832(c) to include language to provide a denied formulary exception request for members who experience severe reactions to a medication for a rare genetic syndrome.

Response: This comment for requested changes is outside the scope of the proposed rule amendment. This project addresses prior authorization exceptions for drugs that exist on the formulary. This commenter is requesting a change regarding formulary exceptions, which is not addressed by this rule project. Therefore, HHSC declines to make changes to the proposed amendment based on the comment.

Comment: One commenter expressed support of the amendments to §354.1832 and §354.1921, stating that the rules provide essential patient protections that aim to reduce denials and enhance access to necessary medications for Medicaid patients, making a meaningful step towards better healthcare outcomes. The commenter also went into specifics about how the rule is clear about identifying exceptions for patients to maintain medication access.

Response: HHSC appreciates this stakeholder's support in the implementation of these rule amendments.

DIVISION 2. ADMINISTRATION

1 TAC §354.1832

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021(c), which requires the executive commissioner to adopt rules necessary for the proper and efficient operation of the medical assistance program; and Texas Government Code §533.071, which requires the commission to adopt rules allowing exceptions to the preferred drug list under certain specified conditions.

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 January 10, 2025.

TRD-202500052

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 30, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 438-2910



DIVISION 7. TEXAS DRUG CODE INDEX--ADDITIONS, RETENTIONS, AND DELETIONS

1 TAC §354.1921

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021(c), which requires the executive commissioner to adopt rules necessary for the proper and efficient operation of the medical assistance program; and Texas Government Code §533.071, which requires the commission to adopt rules allowing exceptions to the preferred drug list under certain specified conditions.

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 January 10, 2025.

TRD-202500053

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 30, 2025

Proposal publication date: September 13, 2024

For further information, please call: (512) 438-2910



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER B. STATE REVIEW AND APPROVAL

19 TAC §67.25

The State Board of Education (SBOE) adopts an amendment to §67.25, concerning state review and approval of instructional

materials. The amendment is adopted with changes to the proposed text as published in the October 11, 2024 issue of the *Texas Register* (49 TexReg 8304) and will be republished. The adopted amendment establishes a minimum threshold for standards alignment for instructional materials for enrichment subjects and courses and for supplemental instructional materials by defining the criteria to be used in the review and approval of instructional materials by the SBOE and the Texas Education Agency (TEA).

REASONED JUSTIFICATION: Texas Education Code (TEC), Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. House Bill 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised TEC, Chapter 31, including several provisions under SBOE authority.

The adopted amendment establishes a minimum threshold for standards alignment for instructional materials for enrichment subjects and courses and for supplemental instructional materials by defining the criteria to be used in the review and approval of instructional materials.

At adoption, paragraph (2) was amended to modify the criteria for enrichment subjects by outlining the requirements for full-subject tier one instructional materials and partial-subject tier one instructional materials.

The SBOE approved the amendment for first reading and filing authorization at its September 13, 2024 meeting and for second reading and final adoption at its November 22, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow the board to consider and review instructional materials for career and technical education courses and instructional materials for supplemental products in Instructional Materials Review and Approval (IMRA) Cycle 2025. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 11, 2024, and ended at 5:00 p.m. on November 12, 2024. The SBOE also provided an opportunity for registered oral and written comments at its November 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. A publisher expressed support for the proposed rule text for supplemental materials that would allow a publisher to indicate the standards covered by their product prior to review in the IMRA process.

Response. The SBOE agrees that the rule will support the wide array of supplemental materials in the marketplace and allow for a fair review of standards alignment.

Comment. Nine individuals commented in opposition to the materials under review for IMRA Cycle 2024.

Response. These comments are outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §28.002(a), which identifies the subjects of the required curriculum; TEC, §31.003(a), as amended by House Bill (HB) 1605, 88th Texas Legislature,

Regular Session, 2023, which permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials; TEC, §31.022, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023; and TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.002(a), and §§31.003(a), 31.022, and 31.023, as amended by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

§67.25. *Consideration and Approval of Instructional Materials by the State Board of Education.*

The State Board of Education (SBOE) shall review the results of the instructional materials reviews completed by a review panel and submitted by the commissioner of education in accordance with Texas Education Code (TEC), §31.022 and §31.023. Instructional materials may be placed on the list of approved instructional materials only if they meet the following criteria:

(1) for full-subject and partial-subject tier one instructional materials for foundation subjects as defined by TEC, §28.002(a)(1), the product components cover 100% of the Texas Essential Knowledge and Skills (TEKS) and applicable English Language Proficiency Standards (ELPS) for the specific grade level and subject area when the proclamation or request for instructional materials was issued. In determining the percentage of the TEKS and ELPS covered by instructional materials, each student expectation shall count as an independent element of the standards;

(2) for enrichment subjects as defined by TEC, §28.002(a)(2):

(A) the product components for full-subject tier one instructional materials cover 100% of the TEKS for the specific grade level and subject area when the proclamation or request for instructional materials was issued. In determining the percentage of the TEKS covered by instructional materials, each student expectation shall count as an independent element of the standards; and

(B) the product components for partial-subject tier one instructional materials cover 100% of the applicable TEKS for the specific grade level and subject area when the proclamation or request for instructional materials was issued. The agency will bring recommendations regarding which TEKS are applicable to the SBOE for approval. In determining the percentage of the TEKS covered by instructional materials, each student expectation shall count as an independent element of the standards;

(3) for supplemental instructional materials as defined by TEC, §31.002(3), the publisher will indicate which TEKS are applicable, and the product and its components cover 100% of the applicable student expectations in the TEKS for the specific subject or course for which the materials are designed;

(4) materials have been reviewed through the process required by TEC, §31.023;

(5) materials are free from factual error, defined as a verified error of fact or any error that would interfere with student learning, including significant grammatical or punctuation errors;

(6) materials meet the Web Content Accessibility Guidelines (WCAG) and meet the technical specifications of the Federal Rehabilitation Act, Section 508, as specified when a request for instructional materials or proclamation was issued;

(7) materials conform to or exceed in every instance the latest edition of the Manufacturing Standards and Specifications for Textbooks (MSST), developed by the State Instructional Materials Review Association, when the proclamation or request for instructional materials was issued;

(8) materials are compliant with the suitability standards adopted by the SBOE and are compliant with all applicable state laws; and

(9) materials provide access to a parent portal as required by TEC, §31.154.

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 January 13, 2025.

TRD-202500078

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: October 11, 2024

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



CHAPTER 120. OTHER TEXAS ESSENTIAL KNOWLEDGE AND SKILLS

SUBCHAPTER B. ENGLISH LANGUAGE PROFICIENCY STANDARDS

19 TAC §120.20, §120.21

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 19 TAC §120.20(e)(2) and §120.21(e)(2) are not included in the print version of the Texas Register. The figures are available in the on-line version of the January 24, 2025, issue of the Texas Register.)

The State Board of Education (SBOE) adopts new §120.20 and §120.21, concerning English language proficiency standards (ELPS). The new sections are adopted with changes to the proposed text as published in the August 2, 2024 issue of the *Texas Register* (49 TexReg 5620) and will be republished. The new sections relocate the ELPS from 19 TAC §74.4 and update the standards to ensure they remain current and comply with federal requirements.

REASONED JUSTIFICATION: In 1998, standards for English as a second language (ESL) for students in Kindergarten-Grade 12 were adopted as part of 19 TAC Chapter 128, Texas Essential Knowledge and Skills for Spanish Language Arts and Reading

and English as a Second Language. In a subsequent Title III monitoring visit, the U.S. Department of Education (USDE) indicated that there was insufficient evidence demonstrating that the ESL standards outlined in 19 TAC Chapter 128 were aligned to state academic content and achievement standards in mathematics, as required by the No Child Left Behind Act (NCLB), §2113(b)(2). In November 2007, the SBOE adopted the ELPS as part of 19 TAC Chapter 74, Curriculum Requirements, to comply with NCLB requirements. The adopted ELPS in 19 TAC §74.4 clarified that state standards in English language acquisition must be implemented as an integral part of the instruction in each foundation and enrichment subject. Additionally, English language proficiency levels of beginning, intermediate, advanced, and advanced high in the domains of listening, speaking, reading, and writing were established as part of the ELPS, as required by NCLB. The superseded second language acquisition standards in 19 TAC Chapter 128 were also repealed in September 2008 during the process of revising the Texas Essential Knowledge and Skills (TEKS) in 19 TAC Chapters 110 and 128.

The SBOE began review and revision of the ELPS in 2019, in accordance with the SBOE's approved TEKS and instructional materials review schedule. Applications to serve on ELPS review work groups were posted on the Texas Education Agency (TEA) website in December 2018, and TEA distributed a survey to collect information from educators regarding the current ELPS. Work groups were convened in March, May, August, September, and October 2019. In September 2019, the USDE indicated that Texas only partially met the requirements of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, and requested additional evidence that the ELPS are aligned to the state's academic content standards and contain language proficiency expectations needed for emergent bilingual students to demonstrate achievement of the state academic standards appropriate to each grade level/grade band in at least reading language arts, mathematics, and science.

In response to feedback from work group members and the USDE, TEA staff convened a panel of experts in second language acquisition from Texas institutions of higher education to complete an analysis of the work group recommendations and current research on English language acquisition. Based on the panel's findings and direction from the SBOE, TEA executed personal services contracts with the panel members and a representative of an education service center to prepare a draft of revisions to the ELPS. Text of the draft ELPS completed by the expert panel was presented to the SBOE at the June 2023 SBOE meeting.

Applications to serve on the 2023-2024 ELPS review work groups were collected by TEA from June 2023 through January 2024. TEA staff provided SBOE members with applications for approval to serve on ELPS work groups in July, September, and December 2023 and January 2024. ELPS review work groups were convened in August, September, and November 2023 and March 2024 with the charge of reviewing and revising the expert panel's draft. In April 2024, the SBOE held a discussion item on the proposed new ELPS, and in May and June 2024, TEA convened a final work group to complete the recommendations for the new ELPS.

The adopted new sections will be implemented in the 2026-2027 school year and will better align the ELPS for second language acquisition to ensure the standards are current and comply with federal requirements. To make the ELPS easier for the public to

locate and improve organization of the standards, they are being moved from 19 TAC §74.4 to Chapter 120, Subchapter B.

The following changes were made since published as proposed.

The general requirements in §120.20(b)(3) and §120.21(b)(3) were amended to read, "provide content-based instruction, including the cross-curricular second language acquisition essential knowledge and skills in subsection (d) of this section, in a manner that is linguistically accommodated to help the student acquire English language proficiency."

The introduction paragraphs in §120.20(c)(7)(B) and §120.21(c)(7)(B) were amended to read, "demonstrate targeted and intentional academic language skills to ensure content-area teachers are able to accurately evaluate the abilities of EB students and scaffold toward the increasingly complex English that students hear, speak, and are expected to read and write."

The student expectation in §120.21(d)(3)(E) was amended to read, "use pre-reading strategies, including previewing the text features, connecting to prior knowledge, organizing ideas, and making predictions, to develop comprehension."

Figure: 19 TAC §120.20(e)(2)

On each page, all proficiency level descriptor headings were amended by striking the numeric references "1 PRE-PRODUCTION," "2 BEGINNING," "3 INTERMEDIATE," "4 HIGH INTERMEDIATE," and "5 ADVANCED" for each level to read, "PRE-PRODUCTION," "BEGINNING," "INTERMEDIATE," "HIGH INTERMEDIATE," and "ADVANCED."

On each page, the pre-production proficiency level descriptor heading was amended to read, "With highly scaffolded instruction and linguistic support, the EB student may."

On page 1, related to ELPS Listening: General for Kindergarten-Grade 3, the fourth language pattern was amended to read, "Language Structures/Pragmatics."

On page 2, related to ELPS Listening: English Language Arts and Reading for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Phonology was modified to remove the word "associations" and replace with the word "correspondence."

On page 3, related to ELPS Listening: Mathematics for Kindergarten-Grade 3, the beginning proficiency level descriptor for Language Structures/Pragmatics was modified to remove the semicolon between "descriptions" and "(attributes)."

On page 5, related to ELPS Listening: Science for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Vocabulary was modified to remove the word "academic."

On page 5, related to ELPS Listening: Science for Kindergarten-Grade 3, the third language pattern was amended to read, "Language Structures/Pragmatics."

On page 6, related to ELPS Listening: Social Studies for Kindergarten-Grade 3, the second language pattern was amended to read, "Language Structures/Pragmatics."

On page 7, related to ELPS Speaking: General for Kindergarten-Grade 3, the third beginning proficiency level descriptor for Vocabulary was amended to read, "recite high-frequency, content-area words, including cognates."

On page 7, related to ELPS Speaking: General for Kindergarten-Grade 3, the third intermediate proficiency level descriptor for Vocabulary was amended to read, "speak using high-frequency,

content-area words in simple phrases with support from cognates."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Register was modified to remove the phrase "to increase" and replace with the phrase "with increasing."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the second intermediate proficiency level descriptor for Discourse was modified to remove the phrase "with language supports."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the first pre-production proficiency level descriptor for Respond to Information was amended to read, "respond with gestures or mimic simple, modeled responses."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the first beginning proficiency level descriptor for Respond to Information was modified to remove the word "word" and replace with the word "words."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the first advanced proficiency level descriptor for Respond to Information was modified to remove the word "in."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the third intermediate proficiency level descriptor for Respond to Information was amended to read, "ask questions orally about content-area topics using question words and phrases."

On page 8, related to ELPS Speaking: General for Kindergarten-Grade 3, the third intermediate proficiency level descriptor for Respond to Information was amended to read, "ask questions orally about content-area topics using question words in simple sentences."

On page 9, related to ELPS Speaking for Kindergarten-Grade 3, the title of the page was amended to read, "ELPS Speaking: English Language Arts and Reading."

On page 9, related to ELPS Speaking: English Language Arts and Reading for Kindergarten-Grade 3, the second language pattern was amended to read, "Respond to Information."

On page 9, related to ELPS Speaking: English Language Arts and Reading for Kindergarten-Grade 3, the beginning proficiency level descriptor for Respond to Information was modified to remove the phrase "with language supports."

On page 9, related to ELPS Speaking: English Language Arts and Reading for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Respond to Information was modified to remove the phrase "with language supports."

On page 10, related to ELPS Speaking: Mathematics for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Language Structures/Syntax was amended to read, "speak using mathematical words or phrases about mathematical relationships, processes, problem-solving, or mathematical models."

On page 10, related to ELPS Speaking: Mathematics for Kindergarten-Grade 3, the high intermediate proficiency level descriptor for Discourse was amended to read, "use sentences to orally describe and justify mathematical ideas, reasoning, arguments, and application of multiple representations, including symbols, diagrams, or graphs."

On page 10, related to ELPS Speaking: Mathematics for Kindergarten-Grade 3, the advanced proficiency level descriptor for Discourse was amended to read, "use sentences and precise mathematical language to explain and justify mathematical ideas, reasoning, arguments, and application of multiple representations, including symbols, diagrams, or graphs."

On page 11, related to ELPS Speaking: Science for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Discourse was amended to read, "justify or convey orally a proposed solution or hypothesis using phrases to include some ideas or opinions based on scientific data."

On page 12, related to ELPS Speaking: Social Studies for Kindergarten-Grade 3, the beginning proficiency level descriptor for Discourse was modified to remove the phrase "with language supports."

On page 13, related to ELPS Reading: General for Kindergarten-Grade 3, the advanced proficiency level descriptor for Vocabulary was amended to read, "demonstrate comprehension of familiar and unfamiliar content-area concepts found in text by responding orally or in writing using key vocabulary with accuracy."

On page 13, related to ELPS Reading: General for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Print Concepts was amended to read, "imitate how others read a book from top to bottom and turn pages from left to right."

On page 14, related to ELPS Reading: General for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Fluency was amended to read, "mimic word-by-word during shared or choral reading of familiar grade-level, content-area text."

On page 14, related to ELPS Reading: General for Kindergarten-Grade 3, the beginning proficiency level descriptor for Fluency was amended to read, "read word-by-word when reading familiar grade-level, content-area text."

On page 14, related to ELPS Reading: General for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Fluency was amended to read, "read in two-word phrases with some three- or four-word groupings when reading familiar grade-level, content-area text."

On page 14, related to ELPS Reading: General for Kindergarten-Grade 3, the high intermediate proficiency level descriptor for Fluency was amended to read, "read in three- or four-word phrase groups up to simple sentences when reading familiar grade-level, content-area text."

On page 14, related to ELPS Reading: General for Kindergarten-Grade 3, the advanced proficiency level descriptor for Fluency was amended to read, "read in larger, meaningful phrase groups or sentences when reading familiar grade-level, content-area text."

On page 15, related to ELPS Reading for Kindergarten-Grade 3, the title of the page was amended to read, "ELPS Reading: English Language Arts and Reading."

On page 16, related to ELPS Reading: Mathematics for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "use pictures, manipulatives, or primary language to demonstrate an understanding of mathematical language structures and symbols read such as sum, equal, (=), greater than, (>), less than, and (<) in mathematical problems."

On page 16, related to ELPS Reading: Mathematics for Kindergarten-Grade 3, the beginning proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "use pictures, manipulatives, or primary language to demonstrate an understanding of mathematical structures and symbols read such as sum, equal, (=), greater than, (>), less than, and (<) in mathematical problems."

On page 16, related to ELPS Reading: Mathematics for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "identify keywords or phrases that correspond to mathematical symbols such as sum, equal, (=), greater than, (>), less than, and (<) read in mathematical problems."

On page 16, related to ELPS Reading: Mathematics for Kindergarten-Grade 3, the high intermediate proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "identify language structures that correspond to mathematical symbols such as sum, equal, (=), greater than, (>), less than, and (<) read in mathematical problems."

On page 16, related to ELPS Reading: Mathematics for Kindergarten-Grade 3, the advanced proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "distinguish between language structures that correspond to mathematical symbols such as sum, equal, (=), greater than, (>), less than, and (<) read in mathematical problems."

On page 17, related to ELPS Reading: Science for Kindergarten-Grade 3, the high intermediate proficiency level descriptor for Language Structures: Semantics/Pragmatics was modified to remove the comma between "read" and "with."

On page 17, related to ELPS Reading: Science for Kindergarten-Grade 3, the advanced proficiency level descriptor for Language Structures: Semantics/Pragmatics was modified to remove the comma between "read" and "with."

On page 18, related to ELPS Reading: Social Studies for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Language Structures: Semantics/Pragmatics was modified to add "scaffolded" before "social studies text."

On page 18, related to ELPS Reading: Social Studies for Kindergarten-Grade 3, the beginning proficiency level descriptor for Language Structures: Semantics/Pragmatics was modified to remove the word "scaffolded" before "social studies text."

On page 18, related to ELPS Reading: Social Studies for Kindergarten-Grade 3, the pre-production proficiency level descriptor for Comprehension: Monitor and Adjust was amended to read, "identify or point to text features such as maps, data charts, and images from historical narratives or informational texts in shared reading."

On page 19, related to ELPS Writing: General for Kindergarten-Grade 3, an advanced proficiency level descriptor, "write words by sounding out phonemes or letter clusters with increasing accuracy," was added for Encoding as there was no proficiency level descriptor for this level and language pattern.

On page 19, related to ELPS Writing: General for Kindergarten-Grade 3, the intermediate proficiency level descriptor for Phonology was amended to read, "connect sounds to letters, including letter clusters and different syllable patterns, with increasing consistency."

On page 21, related to ELPS Writing for Kindergarten-Grade 3, the title of the page was amended to read, "ELPS Writing: English Language Arts and Reading."

On page 21, related to ELPS Writing: English Language Arts and Reading for Kindergarten-Grade 3, the first language pattern was amended to read, "Encoding."

On page 21, related to ELPS Writing: English Language Arts and Reading for Kindergarten-Grade 3, the second language pattern was amended to read, "Phonology."

On page 24, related to ELPS Writing: Social Studies for Kindergarten-Grade 3, the high intermediate proficiency level descriptor for Vocabulary was amended to read, "write sentences using high-frequency social studies language related to cause and effect, chronology, or comparison with relevant details."

On page 24, related to ELPS Writing: Social Studies for Kindergarten-Grade 3, the advanced proficiency level descriptor for Vocabulary was amended to read, "write sentences using precise social studies language related to cause and effect, chronology, comparison, or perspective with relevant and accurate details."

Figure: 19 TAC §120.21(e)(2)

On each page, all proficiency level descriptor headings were amended by striking the numeric references "1 PRE-PRODUCTION," "2 BEGINNING," "3 INTERMEDIATE," "4 HIGH INTERMEDIATE," and "5 ADVANCED" for each level to read, "PRE-PRODUCTION," "BEGINNING," "INTERMEDIATE," "HIGH INTERMEDIATE," and "ADVANCED."

On each page, the pre-production proficiency level descriptor heading was amended to read, "With highly scaffolded instruction and linguistic support, the EB student may."

On page 1, related to ELPS Listening: General for Grades 4-12, the fourth language pattern was amended to read, "Language Structures/Pragmatics."

On page 2, related to ELPS Listening for Grades 4-12, the title of the page was amended to read, "ELPS Listening: English Language Arts and Reading."

On page 2, related to ELPS Listening: English Language Arts and Reading for Grades 4-12, the pre-production proficiency level descriptor for Phonology was modified to remove the word "associations" and replace with the word "correspondence."

On page 2, related to ELPS Listening: English Language Arts and Reading for Grades 4-12, the beginning proficiency level descriptor for Comprehension was amended to read, "use one- to two-word responses or short phrases to respond to oral prompts and questions about aural information or text read aloud."

On page 3, related to ELPS Listening: Mathematics for Grades 4-12, the pre-production proficiency level descriptor for Following Directions was modified to remove the comma between "simple" and "mathematical."

On page 3, related to ELPS Listening: Mathematics for Grades 4-12, the beginning proficiency level descriptor for Language Structures/Pragmatics was modified to remove the semicolon between "descriptions" and "(attributes)."

On page 3, related to ELPS Listening: Mathematics for Grades 4-12, the advanced proficiency level descriptor for Language Structures/Pragmatics was amended to read, "participate in mathematical discussions using unfamiliar and familiar lan-

guage structures such as comparative, descriptive, sequential, and operational structures modeled orally in the classroom."

On page 4, related to ELPS Listening: Science for Grades 4-12, the third language pattern was amended to read, "Language Structures/Pragmatics."

On page 5, related to ELPS Listening: Social Studies for Grades 4-12, the second language pattern was amended to read, "Language Structures/Pragmatics."

On page 6, related to ELPS Speaking: General for Grades 4-12, the intermediate proficiency level descriptor for Vocabulary was modified to remove the word "specific" and replace with the word "area."

On page 6, related to ELPS Speaking: General for Grades 4-12, the beginning proficiency level descriptor for Vocabulary was amended to read, "recite high-frequency, content-area words, including cognates and Greek and Latin prefixes, suffixes, and roots."

On page 6, related to ELPS Speaking: General for Grades 4-12, the beginning proficiency level descriptor for Vocabulary was amended to read, "speak in simple phrases using high-frequency, content-area words with support from cognates and Greek and Latin prefixes, suffixes, and roots."

On page 7, related to ELPS Speaking: General for Grades 4-12, the intermediate proficiency level descriptor for Register was modified to remove the phrase "to increase" and replace with the phrase "with increasing."

On page 7, related to ELPS Speaking: General for Grades 4-12, the second intermediate proficiency level descriptor for Discourse was modified to remove the phrase "with language supports."

On page 7, related to ELPS Speaking: General for Grades 4-12, the first pre-production proficiency level descriptor for Respond to Information was amended to read, "respond with gestures or mimic simple, modeled responses."

On page 7, related to ELPS Speaking: General for Grades 4-12, the first beginning proficiency level descriptor for Respond to Information was modified to remove the word "word" and replace with the word "words."

On page 7, related to ELPS Speaking: General for Grades 4-12, the third intermediate proficiency level descriptor for Respond to Information was amended to read, "ask questions orally about content-area topics using question words and phrases."

On page 7, related to ELPS Speaking: General for Grades 4-12, the third high intermediate proficiency level descriptor for Respond to Information was amended to read, "ask questions orally about content-area topics using question words in simple sentences."

On page 8, related to ELPS Speaking for Grades 4-12, the title of the page was amended to read, "ELPS Speaking: English Language Arts and Reading."

On page 8, related to ELPS Speaking: English Language Arts and Reading for Grades 4-12, the second language pattern was amended to read, "Respond to Information."

On page 8, related to ELPS Speaking: English Language Arts and Reading for Grades 4-12, the beginning proficiency level descriptor for Respond to Information was modified to remove the phrase "with language supports."

On page 8, related to ELPS Speaking: English Language Arts and Reading for Grades 4-12, the intermediate proficiency level descriptor for Respond to Information was modified to remove the phrase "with language supports."

On page 9, related to ELPS Speaking: Mathematics for Grades 4-12, the beginning proficiency level descriptor for Discourse was modified to remove the phrase "with support."

On page 9, related to ELPS Speaking: Mathematics for Grades 4-12, the high intermediate proficiency level descriptor for Discourse was amended to read, "use sentences often to describe and justify mathematical ideas, reasoning, arguments, and application of multiple representations, including symbols, diagrams, and graphs."

On page 9, related to ELPS Speaking: Mathematics for Grades 4-12, the advanced proficiency level descriptor for Discourse was amended to read, "use sentences and precise mathematical language to explain and justify mathematical ideas, reasoning, arguments, and application of multiple representations, including symbols, diagrams, and graphs."

On page 11, related to ELPS Speaking: Social Studies for Grades 4-12, the first beginning proficiency level descriptor for Discourse was modified to remove the phrase "with language supports."

On page 12, related to ELPS Reading: General for Grades 4-12, the advanced proficiency level descriptor for Vocabulary was modified to remove the comma between "vocabulary" and "with."

On page 12, related to ELPS Reading: General for Grades 4-12, the pre-production proficiency level descriptor for Print Concepts was amended to read, "imitate how others read a book from top to bottom and turn pages from left to right."

On page 12, related to ELPS Reading: General for Grades 4-12, the beginning proficiency level descriptor for Purpose for Reading was modified to remove the comma between "English" and "when."

On page 12, related to ELPS Reading: General for Grades 4-12, the intermediate proficiency level descriptor for Purpose for Reading was modified to remove the comma between "text" and "when."

On page 13, related to ELPS Reading: General for Grades 4-12, the pre-production proficiency level descriptor for Fluency was amended to read, "mimic word-by-word during shared or choral reading of familiar grade-level, content-area text."

On page 13, related to ELPS Reading: General for Grades 4-12, the beginning proficiency level descriptor for Fluency was amended to read, "read word-by-word when reading familiar grade-level, content-area text."

On page 13, related to ELPS Reading: General for Grades 4-12, the intermediate proficiency level descriptor for Fluency was amended to read, "read in two-word phrases with some three- or four-word groupings when reading familiar grade-level, content-area text."

On page 13, related to ELPS Reading: General for Grades 4-12, the high intermediate proficiency level descriptor for Fluency was amended to read, "read in three- or four-word phrase groups up to simple sentences when reading familiar grade-level, content-area text."

On page 13, related to ELPS Reading: General for Grades 4-12, the advanced proficiency level descriptor for Fluency was

amended to read, "read in larger, meaningful phrase groups or sentences when reading familiar grade-level, content-area text with expressive interpretation."

On page 14, related to ELPS Reading for Grades 4-12, the title of the page was amended to read, "ELPS Reading: English Language Arts and Reading."

On page 15, related to ELPS Reading: Mathematics for Grades 4-12, the pre-production proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "use pictures, manipulatives, or primary language to demonstrate an understanding of mathematical language structures read in simple mathematical problems."

On page 15, related to ELPS Reading: Mathematics for Grades 4-12, the beginning proficiency level descriptor for Language Structures: Semantics/Pragmatics was amended to read, "use pictures, manipulatives, or primary language to demonstrate an understanding of mathematical language structures and symbols read in mathematical problems."

On page 16, related to ELPS Reading: Science for Grades 4-12, the high intermediate proficiency level descriptor for Comprehension: Monitor and Adjust was modified to remove the comma between "read" and "with."

On page 16, related to ELPS Reading: Science for Grades 4-12, the advanced proficiency level descriptor for Comprehension: Monitor and Adjust was modified to remove the comma between "read" and "with."

On page 17, related to ELPS Reading: Social Studies for Grades 4-12, the pre-production proficiency level descriptor for Comprehension: Monitor and Adjust was amended to read, "identify or point to features such as maps, data charts, and images from historical narratives or informational texts in shared reading."

On page 18, related to ELPS Writing: General for Grades 4-12, the intermediate proficiency level descriptor for Phonology was amended to read, "connect sounds to letters, including letter clusters and different syllable patterns, with increasing consistency."

On page 20, related to ELPS Writing for Grades 4-12, the title of the page was amended to read, "ELPS Writing: English Language Arts and Reading."

On page 20, related to ELPS Writing: English Language Arts and Reading for Grades 4-12, the first language pattern was amended to read, "Encoding."

On page 20, related to ELPS Writing: English Language Arts and Reading for Grades 4-12, the second language pattern was amended to read, "Phonology."

On page 21, related to ELPS Writing: Mathematics for Grades 4-12, the first beginning proficiency level descriptor for Vocabulary was modified to remove the phrase "and their meaning."

On page 21, related to ELPS Writing: Mathematics for Grades 4-12, the second high intermediate proficiency level descriptor for Vocabulary was amended to read, "write common mathematical abbreviations such as units of measurement and formulas with increasing accuracy."

On page 21, related to ELPS Writing: Mathematics for Grades 4-12, the second advanced proficiency level descriptor for Vocabulary was amended to read, "write common mathematical abbreviations such as units of measurement and formulas with accuracy."

On page 22, related to ELPS Writing: Science for Grades 4-12, the intermediate proficiency level descriptor for Vocabulary was amended to read, "write using high-frequency science and engineering terms and simple phrases with support from cognates and Greek and Latin prefixes, suffixes, and roots."

The SBOE approved the new sections for first reading and filing authorization at its June 28, 2024 meeting and for second reading and final adoption at its September 13, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the new sections for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will enable districts to begin preparing for implementation of the new ELPS. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began August 2, 2024, and ended at 5:00 p.m. on September 3, 2024. The SBOE also provided an opportunity for registered oral and written comments at its September 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One community member asked if there are plans or a timeline for the development of a crosswalk between the current ELPS and the proposed new ELPS to show changes between the two sets of standards.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One parent questioned why there are limited proficiency level descriptors (PLDs) in Grades 4-12 for English language arts and reading (ELAR) in the proposed new ELPS. The commenter stated that the proposed PLDs in the ELAR section for the speaking, reading, and writing domains do not address the following language patterns: vocabulary, language structures/pragmatics, following directions, discourse, print concepts, comprehension, encoding, and fluency.

Response. The SBOE provides the following clarification. The adopted PLDs for Grades 4-12 in Figure §120.21(e) consist of five sections that address general, ELAR, mathematics, science, and social studies. PLDs in the general section apply to every subject area, including ELAR, and address language patterns such as vocabulary, language structures/pragmatics, following directions, discourse, print concepts, comprehension, encoding, and fluency where they are applicable in the speaking, reading, and writing domains.

Comment. One community member asked if the proposed new ELPS will be used for the 2025 Instructional Materials Review and Approval (IMRA) process.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One administrator recommended adding the word "images" to the proposed student expectation in §120.20(d)(1)(A) in the listening domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the suggestion to add "images" to the student expectation in §120.20(d)(1)(A) is unnecessary.

Comment. One administrator recommended changing the word "follow" to "respond" in the proposed student expectation in §120.20(d)(1)(C) in the listening domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the word "follow" in the student expectation in §120.20(d)(1)(C) in the listening domain for Kindergarten-Grade 3 appropriately reflects how a student should respond to oral directions when listening.

Comment. One administrator recommended changing the term "connecting words" to "transition words" in the proposed student expectation in §120.20(d)(2)(C) in the speaking domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the term "connecting words" is appropriate for Kindergarten-Grade 3 as proposed.

Comment. One administrator recommended changing the term "classroom material" to "a variety of text" in the proposed student expectation in §120.20(d)(3)(D) in the reading domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the term "classroom material" in the student expectation in §120.20(d)(3)(H) is developmentally appropriate for Kindergarten-Grade 3 students.

Comment. One administrator recommended adding the word "prosody" to the proposed student expectation in §120.20(d)(3)(H) in the reading domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the suggestion to add the word "prosody" to the student expectation in §120.20(d)(3)(H) is unnecessary.

Comment. One administrator recommended changing the phrase "spell words" to "write text" in the proposed student expectation in §120.20(d)(4)(B) in the writing domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the phrase "spell words" is appropriately included in the student expectation in §120.20(d)(4)(B) as proposed.

Comment. One administrator recommended changing the term "connecting words" to "transition words" in the student expectation in §120.20(d)(4)(D) in the writing domain for Kindergarten-Grade 3.

Response. The SBOE disagrees and has determined that the term "connecting words" in the student expectation in §120.20(d)(4)(D) is appropriate for Kindergarten-Grade 3 as proposed.

Comment. One administrator recommended changing the word "details" to "supporting details and evidence" in the proposed student expectation in §120.20(d)(4)(F) in the writing domain for Kindergarten-Grade 3.

Response. The SBOE disagrees that the suggested change is necessary and has determined that the word "details" is developmentally appropriate in the student expectation in §120.20(d)(4)(F) for Kindergarten-Grade 3.

Comment. One administrator expressed concern that there is not a PLD at the advanced level in Figure §120.20(e), General - Writing (Encoding), and the missing PLD may cause confusion.

Response. The SBOE agrees and took action to add a PLD for the advanced level in Figure §120.20(e)(2), General - Writing (Encoding), to read, "write words by sounding out phonemes or letter clusters with increasing accuracy."

Comment. One administrator expressed concern that relocating the proposed new ELPS from 19 TAC Chapter 74 to 19 TAC Chapter 120 would further reduce the visibility and importance of the ELPS.

Response. The SBOE disagrees and has determined that the relocation of the ELPS from 19 TAC Chapter 74 to 19 TAC Chapter 120 is appropriate and will increase the visibility of the ELPS.

Comment. One teacher expressed support for the proposed new ELPS as they appropriately reflect developmental expectations for emergent bilingual students.

Response. The SBOE agrees and took action to adopt the proposed new ELPS as amended.

Comment. One teacher expressed support for the proposed new ELPS and stated that the proposed new ELPS focus more clearly on English language proficiency growth and seem easier to implement with the TEKS.

Response. The SBOE agrees and took action to adopt the proposed new ELPS as amended.

Comment. One administrator stated that the proposed new ELPS will require a change to the Texas English Language Proficiency Assessment System (TELPAS) and information about these changes will need to be shared prior to the new assessment. The commenter expressed concern that while there has been plenty of time given leading up to the revised State of Texas Assessments of Academic Readiness (STAAR®), there has been little information shared about changes to TELPAS.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One administrator stated that schools have not yet received students' speaking responses from recent TELPAS administrations.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher asked if the TELPAS would measure the new proficiency levels in the proposed new ELPS.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §29.051, which establishes bilingual education and special language programs in public schools and provides supplemental financial assistance to help school districts meet the extra costs of the programs.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4), 28.002(a), and 29.051.

§120.20. English Language Proficiency Standards, Kindergarten-Grade 3, Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2026-2027 school year.

(b) General requirements. In fulfilling the requirements of this section, school districts and charter schools shall:

(1) identify the student's English language proficiency levels in the domains of listening, speaking, reading, and writing in accordance with the proficiency level descriptors for the pre-production, beginning, intermediate, high intermediate, and advanced levels delineated in subsection (e) of this section;

(2) provide instruction in the knowledge and skills of the foundation and enrichment curriculum in a manner that is linguistically accommodated (communicated, sequenced, and scaffolded) commensurate with the student's levels of English language proficiency to ensure that the student learns the knowledge and skills in the required curriculum;

(3) provide content-based instruction, including the cross-curricular second language acquisition essential knowledge and skills in subsection (d) of this section, in a manner that is linguistically accommodated to help the student acquire English language proficiency; and

(4) provide intensive and ongoing foundational second language acquisition instruction to emergent bilingual (EB) students in Kindergarten-Grade 12 who are at the pre-production, beginning, or intermediate level of English language proficiency in listening, speaking, reading, or writing as determined by the state's English language proficiency assessment system. These EB students require focused, targeted, and systematic second language acquisition instruction to provide them with the foundation of English language necessary to support content-based instruction and accelerated learning of English.

(c) Introduction.

(1) The English language proficiency standards (ELPS) outline student expectations and proficiency level descriptors for EB students in English. The ELPS are organized across four language domains: listening, speaking, reading, and writing.

(2) Language acquisition is a complex process that consists of several interrelated components, including phonetics, phonology, semantics, syntax, morphology, and pragmatics. As students develop proficiency in these language structures, they are able to make connections between their primary language and English.

(3) Classroom contexts foster social and academic registers, which are types of language appropriate for a situation or setting, to support language proficiency. Informal (social) language consists of English needed for students to effectively interact, exchange ideas, and engage in various settings and contexts. Formal (academic) language consists of oral and written language used to build knowledge, participate in content-specific discourse, and process complex academic material found in formal school settings and interactions.

(4) The progression of skills in the four language domains are developed simultaneously and can be divided into two categories: receptive skills and expressive skills. Listening and reading are the receptive (input) skills. Students' development in receptive skills is necessary for comprehension and attainment of the English language and content. Speaking and writing are the expressive (output) skills. Students' ability to express and share their personal ideas and content knowledge allow teachers the opportunity to check for understanding and adjust instruction. Effective content-based language instruction involves engaging EB students in scaffolded opportunities to listen, speak, read, and write at their current levels of proficiency while gradually increasing linguistic complexity.

(5) In order for EB students to be successful, educators must create an environment that welcomes and encourages students

to leverage their unique cultural and linguistic experiences as they develop English language skills and learn academic content. Educators must cultivate an approach that integrates students' and their families' funds of knowledge into the classroom instructional practices. Culturally and linguistically sustaining practices leverage and celebrate students' cultural heritage and backgrounds while elevating their cultural and linguistic identities. Teaching and learning cognates that connect both (or multiple) languages can also construct bridges between languages and increase confidence as English language acquisition progresses.

(6) The ELPS student expectations are the knowledge and skills students must demonstrate. They indicate what students should know and be able to do in order to meet academic content standards. Proficiency level descriptors describe behaviors EB students exhibit across five proficiency levels as they acquire English. EB students may exhibit different proficiency levels within and across the domains of listening, speaking, reading, and writing.

(7) The ELPS demonstrate an asset-based approach to address the affective, linguistic, and cognitive needs of EB students in accordance with §89.1210(b) of this title (relating to Program Content and Design) as follows:

(A) acknowledge and leverage the existing funds of knowledge students possess, including linguistic repertoire, cultural heritage, and background knowledge;

(B) demonstrate targeted and intentional academic language skills to ensure content-area teachers are able to accurately evaluate the abilities of EB students and scaffold toward the increasingly complex English that students hear, speak, and are expected to read and write; and

(C) provide an exact and incremental measure of the stages of English language acquisition with attention to the fact that EB students at all levels of proficiency can engage in cognitively demanding tasks and master the required essential knowledge and skills with appropriate language support.

(8) The proficiency level descriptors are organized into general proficiency level descriptors and content-area proficiency level descriptors. General proficiency level descriptors are descriptions of a broad scope of student behaviors that can be observed in a variety of educational settings and across content areas. Content-area proficiency level descriptors describe student behaviors and language associated with discipline-specific learning in English language arts and reading, mathematics, science, and social studies.

(d) Cross-curricular English language acquisition student expectations.

(1) Student expectations--listening. The EB student listens to a variety of speakers, including teachers, peers, and multimedia, to gain an increasing level of comprehension in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels in listening. The student is expected to:

(A) distinguish sounds and intonation patterns by responding orally, in writing, or with gestures;

(B) demonstrate an understanding of content-area vocabulary when heard during formal and informal classroom interactions by responding with gestures or images, orally, or in writing;

(C) follow oral directions with accuracy;

(D) use context to construct the meaning of descriptive language, words with multiple meanings, register, or figurative lan-

guage such as idiomatic expressions heard during formal and informal classroom interactions;

(E) demonstrate listening comprehension from information presented orally during formal and informal classroom interactions by recalling, retelling, responding, or asking for clarification or additional details; and

(F) derive meaning from a variety of auditory multimedia sources to build and reinforce concepts and language acquisition.

(2) Student expectations--speaking. The EB student speaks using a variety of language structures for a variety of purposes with an awareness of different language registers (formal/informal) using vocabulary with increasing accuracy and fluency in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency level of English language acquisition in speaking. The student is expected to:

(A) produce sounds of newly acquired vocabulary such as long and short vowels, silent letters, and consonant clusters to pronounce words with accuracy;

(B) speak using content-area vocabulary during formal and informal classroom interactions to demonstrate acquisition of new words and high-frequency words;

(C) speak using a variety of language and grammatical structures, sentence lengths and types, and connecting words;

(D) speak using appropriate register to convey a message during formal and informal classroom interactions with accuracy and fluency;

(E) narrate, describe, or explain information or persuade orally with increasing specificity and detail during formal and informal classroom interactions; and

(F) restate, ask questions about, or respond to information during formal and informal classroom interactions.

(3) Student expectations--reading. The EB student reads a variety of texts for different purposes with an increasing level of comprehension in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels of English language acquisition in reading. For Kindergarten and Grade 1, certain student expectations apply to text read aloud for students not yet at the stage of decoding written text. The student is expected to:

(A) demonstrate awareness of print concepts and directionality of reading as left to right and top to bottom;

(B) decode words using relationships between sounds and letters;

(C) use high-frequency words, cognates, and content-area vocabulary to comprehend written classroom materials;

(D) use context to construct the meaning of figurative language such as idiomatic expressions, descriptive language, and words with multiple meanings to comprehend classroom materials;

(E) use pre-reading strategies, including previewing text features, connecting to prior knowledge, organizing ideas, and making predictions, to develop comprehension;

(F) derive meaning from and demonstrate comprehension of content-area texts using visual, contextual, and linguistic supports;

(G) demonstrate reading comprehension of content-area texts by making connections, retelling, or responding to questions; and

(H) read with fluency and demonstrate comprehension of content-area text.

(4) Student expectations--writing. The EB student writes using a variety of language structures with increasing accuracy to effectively address a variety of purposes (formal and informal) and audiences in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels of English language acquisition in writing. For Kindergarten and Grade 1, certain student expectations do not apply until the student has reached the proficiency level of generating original written text using a standard writing system. The student is expected to:

(A) apply relationships between sounds and letters of the English language to represent sounds when writing;

(B) spell words following conventional spelling patterns and rules;

(C) write using high-frequency words and content-area vocabulary;

(D) write using a variety of grade-appropriate sentence lengths and types and connecting words;

(E) write formal or informal text using conventions such as capitalization and punctuation and grammatical structures such as subject-verb agreement and verb tense; and

(F) write to narrate, describe, explain, respond, or persuade with detail in the content areas.

(e) Proficiency level descriptors.

(1) The following five proficiency levels describe students' progress in English language acquisition.

(A) Pre-production. The pre-production level, also known as the silent period, is the early stage of English language acquisition when receptive language is developing. Students develop comprehension when highly scaffolded instruction and linguistic support are provided. Student responses are mostly non-verbal.

(B) Beginning. The beginning level is characterized by speech emergence (expressive language) using one word or two-to-three-word phrases. Students at this level require highly scaffolded instruction and linguistic support. Students at this level begin to consistently use present tense verbs and repeat keywords and familiar phrases when engaging in formal and informal interactions.

(C) Intermediate. The intermediate level is characterized by the ability to use receptive and expressive language with demonstrated literal comprehension. Students at this level need moderately scaffolded instruction and linguistic support. Additional visual and linguistic support is needed to understand unfamiliar or abstract concepts such as figurative language, humor, and cultural or societal references. Students at this level begin to consistently use short phrases and simple sentences or ask short questions to demonstrate comprehension during formal and informal interactions.

(D) High intermediate. Students at the high intermediate level begin to consistently use a variety of sentence types, express opinions, share thoughts, and ask for clarification. Students at this level have an increased level of literal and abstract comprehension. Students may need minimal scaffolded instruction and linguistic support to engage in formal and informal classroom interactions.

(E) Advanced. The advanced level is characterized by the ability of students to engage in formal and informal classroom interactions with little to no linguistic support. Students at this level engage in discourse using content-area vocabulary and a variety of grammatical structures with increasing accuracy.

(2) The Kindergarten-Grade 3 proficiency level descriptors are described in the figure provided in this paragraph. Figure: 19 TAC §120.20(e)(2)

§120.21. *English Language Proficiency Standards, Grades 4-12, Adopted 2024.*

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2026-2027 school year.

(b) General requirements. In fulfilling the requirements of this section, school districts and charter schools shall:

(1) identify the student's English language proficiency levels in the domains of listening, speaking, reading, and writing in accordance with the proficiency level descriptors for the pre-production, beginning, intermediate, high intermediate, and advanced levels delineated in subsection (e) of this section;

(2) provide instruction in the knowledge and skills of the foundation and enrichment curriculum in a manner that is linguistically accommodated (communicated, sequenced, and scaffolded) commensurate with the student's levels of English language proficiency to ensure that the student learns the knowledge and skills in the required curriculum;

(3) provide content-based instruction, including the cross-curricular second language acquisition essential knowledge and skills in subsection (d) of this section, in a manner that is linguistically accommodated to help the student acquire English language proficiency; and

(4) provide intensive and ongoing foundational second language acquisition instruction to emergent bilingual (EB) students in Kindergarten-Grade 12 who are at the pre-production, beginning, or intermediate level of English language proficiency in listening, speaking, reading, or writing as determined by the state's English language proficiency assessment system. These EB students require focused, targeted, and systematic second language acquisition instruction to support them with the foundation of English language necessary to provide content-based instruction and accelerated learning of English.

(c) Introduction.

(1) The English language proficiency standards (ELPS) outline student expectations and proficiency level descriptors for EB students in English. The ELPS are organized across four language domains: listening, speaking, reading, and writing.

(2) Language acquisition is a complex process that consists of several interrelated components, including phonetics, phonology, semantics, syntax, morphology, and pragmatics. As students develop proficiency in these language structures, they are able to make connections between their primary language and English.

(3) Classroom contexts foster social and academic registers, which are types of language appropriate for a situation or setting, to support language proficiency. Informal (social) language consists of English needed for students to effectively interact, exchange ideas, and engage in various settings and contexts. Formal (academic) language consists of oral and written language used to build knowledge, participate in content-specific discourse, and process complex academic material found in formal school settings and interactions.

(4) The progression of skills in the four language domains are developed simultaneously and can be divided into two categories: receptive skills and expressive skills. Listening and reading are the receptive (input) skills. Students' development in receptive skills is necessary for comprehension and attainment of the English language and content. Speaking and writing are the expressive (output) skills. Students' ability to express and share their personal ideas and content knowledge allow teachers the opportunity to check for understanding and adjust instruction. Effective content-based language instruction involves engaging EB students in scaffolded opportunities to listen, speak, read, and write at their current levels of proficiency while gradually increasing linguistic complexity.

(5) In order for EB students to be successful, educators must create an environment that welcomes and encourages students to leverage their unique cultural and linguistic experiences as they develop English language skills and learn academic content. Educators must cultivate an approach that integrates students' and their families' funds of knowledge into the classroom instructional practices. Culturally and linguistically sustaining practices leverage and celebrate students' cultural heritage and backgrounds while elevating their cultural and linguistic identities. Teaching and learning cognates that connect both (or multiple) languages can also construct bridges between languages and increase confidence as English language acquisition progresses.

(6) The ELPS student expectations are the knowledge and skills students must demonstrate. They indicate what students should know and be able to do in order to meet academic content standards. Proficiency level descriptors describe behaviors EB students exhibit across five proficiency levels as they acquire English. EB students may exhibit different proficiency levels within and across the domains of listening, speaking, reading, and writing.

(7) The ELPS demonstrate an asset-based approach to address the affective, linguistic, and cognitive needs of EB students in accordance with §89.1210(b) of this title (relating to Program Content and Design) as follows:

(A) acknowledge and leverage the existing funds of knowledge students possess, including linguistic repertoire, cultural heritage, and background knowledge;

(B) demonstrate targeted and intentional academic language skills to ensure content-area teachers are able to accurately evaluate the abilities of EB students and scaffold toward the increasingly complex English that students hear, speak, and are expected to read and write; and

(C) provide an exact and incremental measure of the stages of English language acquisition with attention to the fact that EB students at all levels of proficiency can engage in cognitively demanding tasks and master the required essential knowledge and skills with appropriate language support.

(8) The proficiency level descriptors are organized into general proficiency level descriptors and content-area proficiency level descriptors. General proficiency level descriptors are descriptions of a broad scope of student behaviors that can be observed in a variety of educational settings and across content areas. Content-area proficiency level descriptors describe student behaviors and language associated with discipline-specific learning in English language arts and reading, mathematics, science, and social studies.

(d) Cross-curricular English language acquisition student expectations.

(1) Student expectations--listening. The EB student listens to a variety of speakers, including teachers, peers, and multimedia, to

gain an increasing level of comprehension in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels in listening. The student is expected to:

(A) distinguish sounds and intonation patterns by responding with gestures or images, orally, or in writing;

(B) use contextual factors or word analysis such as cognates, Greek and Latin prefixes, suffixes, and roots to comprehend content-specific vocabulary when heard during formal and informal classroom interactions by responding with gestures or images, orally, or in writing;

(C) respond with accuracy to oral directions, instructions, and requests;

(D) use context to construct the meaning of descriptive language, words with multiple meanings, register, and figurative language such as idiomatic expressions heard during formal and informal classroom interactions;

(E) demonstrate listening comprehension from information presented orally during formal and informal classroom interactions by restating, responding, paraphrasing, summarizing, or asking for clarification or additional details; and

(F) derive meaning from a variety of auditory multimedia sources to build and reinforce concepts and language acquisition.

(2) Student expectations--speaking. The EB student speaks using a variety of language structures for a variety of purposes with an awareness of different language registers (formal/informal) using vocabulary with increasing accuracy and fluency in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency level of English language acquisition in speaking. The student is expected to:

(A) pronounce words, including high-frequency words, cognates, and increasingly complex syllable types, with accuracy;

(B) speak using content-area vocabulary during formal and informal classroom interactions to demonstrate acquisition of new words and high-frequency words;

(C) speak using a variety of language and grammatical structures, sentence lengths and types, and transition words;

(D) speak using appropriate register to convey a message during formal and informal classroom interactions with accuracy and fluency;

(E) narrate, describe, explain, justify, discuss, elaborate, or evaluate orally with increasing specificity and detail in academic context or discourse; and

(F) restate, ask questions about, or respond to information during formal and informal classroom interactions.

(3) Student expectations--reading. The EB student reads a variety of texts for different purposes with an increasing level of comprehension in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels of English language acquisition in reading. The student is expected to:

(A) demonstrate awareness of print concepts and directionality of reading as left to right and top to bottom;

(B) decode words using the relationships between sounds and letters and identify syllable patterns, cognates, affixes, roots, or base words;

(C) use high-frequency words, contextual factors, and word analysis such as Greek and Latin prefixes, suffixes, and roots and cognates to comprehend content-area vocabulary in text;

(D) use context to construct the meaning of figurative language such as idiomatic expressions, descriptive language, and words with multiple meanings to comprehend a variety of text;

(E) use pre-reading strategies, including previewing the text features, connecting to prior knowledge, organizing ideas, and making predictions, to develop comprehension;

(F) derive meaning from and demonstrate comprehension of content-area texts using visual, contextual, and linguistic supports;

(G) demonstrate reading comprehension of content-area texts by retelling, paraphrasing, summarizing, and responding to questions; and

(H) read with fluency and prosody and demonstrate comprehension of content-area text.

(4) Student expectations--writing. The EB student writes using a variety of language structures with increasing accuracy to effectively address a variety of purposes (formal and informal) and audiences in all content areas. The EB student may be at the pre-production, beginning, intermediate, high intermediate, or advanced proficiency levels of English language acquisition in writing. The student is expected to:

(A) apply relationships between sounds and letters of the English language to represent sounds when writing;

(B) write text following conventional spelling patterns and rules;

(C) write using a combination of high-frequency words and content-area vocabulary;

(D) write content-area texts using a variety of sentence lengths and types and transition words;

(E) write content-area specific text using conventions such as capitalization, punctuation, and abbreviations and grammatical structures such as subject-verb agreement, verb tense, possessive case, and contractions; and

(F) write to narrate, describe, explain, respond, or justify with supporting details and evidence using appropriate content, style, register, and conventions for specific purpose and audience.

(e) Proficiency level descriptors.

(1) The following five proficiency levels describe students' progress in English language acquisition.

(A) Pre-production. The pre-production level, also known as the silent period, is the early stage of English language acquisition when receptive language is developing. Students develop comprehension when highly scaffolded instruction and linguistic support are provided. Student responses are mostly non-verbal.

(B) Beginning. The beginning level is characterized by speech emergence (expressive language) using one word or two-to-three-word phrases. Students at this level require highly scaffolded instruction and linguistic support. Students at this level begin to consistently use present tense verbs and repeat keywords and familiar phrases when engaging in formal and informal interactions.

(C) Intermediate. The intermediate level is characterized by the ability to use receptive and expressive language with demonstrated literal comprehension. Students at this level need mod-

erately scaffolded instruction and linguistic support. Additional visual and linguistic support is needed to understand unfamiliar or abstract concepts such as figurative language, humor, and cultural or societal references. Students at this level begin to consistently use short phrases and simple sentences or ask short questions to demonstrate comprehension during formal and informal interactions.

(D) High intermediate. Students at the high intermediate level begin to consistently use a variety of sentence types, express opinions, share thoughts, and ask for clarification. Students at this level have an increased level of literal and abstract comprehension. Students may need minimal scaffolded instruction and linguistic support to engage in formal and informal classroom interactions.

(E) Advanced. The advanced level is characterized by the ability of students to engage in formal and informal classroom interactions with little to no linguistic support. Students at this level engage in discourse using content-area vocabulary and a variety of grammatical structures with increasing accuracy.

(2) The Grades 4-12 proficiency level descriptors are described in the figure provided in this paragraph.
Figure: 19 TAC §120.21(e)(2)

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

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500076

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: August 2, 2024

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



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

SUBCHAPTER J. HOSPITALITY AND TOURISM

19 TAC §127.482

The State Board of Education (SBOE) adopts an amendment to §127.482, concerning Texas Essential Knowledge and Skills for career development and career and technical education. The amendment is adopted without changes to the proposed text as published in the August 2, 2024 issue of the *Texas Register* (49 TexReg 5625) and will not be republished. The adopted amendment makes technical adjustments to prerequisites to align with the recently revised career and technical education (CTE) programs of study.

REASONED JUSTIFICATION: The federal *Strengthening Career and Technical Education for the 21st Century Act*, commonly referred to as Perkins V, requires states that receive federal CTE funds to align CTE programs of study to high-wage, in-demand, and high-skill occupations. In fall 2023, the Texas Education

Agency engaged members of the workforce, secondary education, and higher education to advise on the development and refresh of programs of study, which include coherent course sequences, industry-based certifications, and work-based learning opportunities to ensure students are prepared for high-wage, in-demand, and high-skill careers in Texas.

The adopted amendment aligns language related to prerequisites to ensure alignment with the refreshed programs of study.

The SBOE approved the amendment for first reading and filing authorization at its June 28, 2024 meeting and for second reading and final adoption at its September 13, 2024 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow for technical adjustments to be made to course titles, prerequisites, and corequisites at the earliest possible date to avoid confusion and ensure students have access to appropriate corequisite courses. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began August 2, 2024, and ended at 5:00 p.m. on September 3, 2024. The SBOE also provided an opportunity for registered oral and written comments at its September 2024 meeting in accordance with the SBOE board operating policies and procedures. No public comments were received.

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

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

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

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500079

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: August 2, 2024

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



CHAPTER 130. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts amendments to §§130.30, 130.136, 130.137, 130.138, 130.143, 130.144, 130.445, and 130.446, concerning Texas Essential Knowledge and Skills for career and technical education. The amendments are adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5627) and will not be republished. The adopted amendments make technical adjustments to course titles, prerequisites, and corequisites to align with the recently revised career and technical education (CTE) programs of study.

REASONED JUSTIFICATION: The federal *Strengthening Career and Technical Education for the 21st Century Act*, commonly referred to as Perkins V, requires states that receive federal CTE funds to align CTE programs of study to high-wage, in-demand, and high-skill occupations. In fall 2023, the Texas Education Agency engaged members of the workforce, secondary education, and higher education to advise on the development and refresh of programs of study, which include coherent course sequences, industry-based certifications, and work-based learning opportunities to ensure students are prepared for high-wage, in-demand, and high-skill careers in Texas.

The adopted amendments align existing CTE course titles and language related to prerequisites and corequisites to ensure alignment with the refreshed programs of study.

The SBOE approved the amendments for first reading and filing authorization at its June 28, 2024, meeting and for second reading and final adoption at its September 13, 2024, meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendments for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow for technical adjustments to be made to course titles, prerequisites, and corequisites at the earliest possible date to avoid confusion and ensure students have access to appropriate corequisite courses. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began August 2, 2024, and ended at 5:00 p.m. on September 3, 2024. The SBOE also provided an opportunity for registered oral and written comments at its September 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One teacher and three administrators recommended maintaining the current course titles for §130.136, Business Information Management I, and §130.137, Business Information Management II, since the proposed new course names could cause confusion.

Response. The SBOE disagrees and has determined that the proposed new course titles are appropriate and better reflect the content and level of the courses.

Comment. One administrator stated that the proposed new course titles, Foundations of Business Communication and Technologies and Business Communication and Technologies, for Business Information Management I and II, respectively, do not reflect the Texas Essential Knowledge and Skills for the courses, which focus on application software.

Response. The SBOE disagrees and has determined that the proposed new course titles appropriately reflect the content and level of the courses.

Comment. Two administrators stated that the proposed amendments to certain course titles are necessary but are incomplete as they only address four courses in two career clusters. The commenter explained that there are more course titles with "I" and "II" used to designate two levels of related content rather than to indicate the level of a course within a program of study.

Response. The SBOE agrees that changes to CTE course titles are necessary and took action to adopt the proposed amendments to certain course titles as proposed. The SBOE has also determined that additional updates to CTE course titles may be necessary in the future to better reflect the level of the courses within program(s) of study.

Comment. One administrator stated that there are currently only two CTE courses that include the word "foundations" in their titles, while other course titles include "essentials," "fundamentals," "introduction," and "basic." The commenter recommended consistently using "foundations" and "advanced" respectively as replacements for "I" and "II" in CTE course titles.

Response. The SBOE disagrees that the term "foundations" is the only term that should be used in the titles of introductory level courses and has determined that terms such as "essentials," "fundamentals," "introduction," and "basic" may also be appropriate. The SBOE also disagrees that "I" and "II" should be replaced in all CTE courses and has determined that they are appropriate for Level 2 and Level 3 courses in a program of study.

SUBCHAPTER A. AGRICULTURE, FOOD, AND NATURAL RESOURCES

19 TAC §130.30

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

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

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

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500080

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: August 2, 2024

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



SUBCHAPTER D. BUSINESS MANAGEMENT AND ADMINISTRATION

19 TAC §§130.136 - 130.138, 130.143, 130.144

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

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

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

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500081

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: August 2, 2024

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



SUBCHAPTER P. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS

19 TAC §130.445, §130.446

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

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

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

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500082

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 2, 2025

Proposal publication date: August 2, 2024

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



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 361. ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §361.1

The Texas State Board of Plumbing Examiners (Board) adopts the amendment to 22 Texas Administrative Code, Chapter 361, §361.1(18) relating to the expansion of the definition of direct supervision to include remote virtual, real-time audio-visual communication in limited circumstances. The rule is adopted with a non-substantive change to the proposed text published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6698.) The rule will be republished.

REASONED JUSTIFICATION FOR THE RULE

The rules under 22 TAC, Chapter 361, implement Texas Occupations Code, Chapter 1301, Texas State Board of Plumbing Examiners.

The rule amendment expands the definition of direct supervision to include remote virtual supervision under limited conditions.

The Board recognizes that there are not enough plumbing professionals in Texas to serve its growing population and the expanding Texas economy. Homeowners in particular need more service plumbing professionals to do small jobs in a timely and cost-effective manner. This rule amendment aims to help provide greater regulatory flexibility to allow competent professionals, under the supervision of a Responsibility Master Plumber, to make such service calls.

The Board further recognizes that technology with the capability to visually stream or project the job site in real-time, such as Facetime, Zoom, etc., may be successfully utilized to perform on-the-job oversight and direct supervision of apprentices and licensees in the field. It is believed that given the pandemic and related, necessary social-distancing practices, virtual supervision was utilized in the plumbing industry since 2020 as a matter of necessity.

The proposed rule amendment creates the option for a Responsible Master Plumber (RMP) to choose to use remote virtual, audio-visual, real-time supervision in certain conditions to directly supervise work done under their authority and responsibility. Section 361.1(18) of the rules defines "Direct Supervision." On-the-job oversight and supervision is amended to show that direct supervision may include remote virtual audio-visual, real-time communication for registrants and licensees with 4000 hours of documented work and who hold Residential Utilities Installer and Drain Cleaner registrations performing repair and/or replacement of existing fixtures, not involving gas appliances, on one and two family dwellings.

No affirmative duty on or regulation is created by the rule amendment on registrants or licensees. The amended rule does not alleviate the responsibility of the RMP from adequate supervision or from ensuring that work is performed to the standards of the applicable code. It is in the Responsible Master Plumber's discretion to utilize optional technology as they deem it appropriate given their job sites, staff, and technological capacities. Should inspection or investigation be done on the job site, any present licensee or registrant must demonstrate that remote real-time, audio-visual communication is successful and effective.

SECTION BY SECTION SUMMARY

Section 361.1(18) Direct Supervision. On-the-job oversight and supervision is amended to show that direct supervision may include remote virtual audio-visual, real-time communication for registrants and licensees that hold at least 4000 hours of documented experience, a Residential Utilities Installer registration and a Drain Cleaner registration for performing repair and/or replacement of existing fixtures, not involving gas appliances, on one and two family dwellings.

SUMMARY OF COMMENT

Sixty-two comments were received to the posted rule. Two commentors commented in favor of the rule amendment. The remainder opposed the rule. The comment in opposition was largely duplicative and was addressed by the Board together.

On commentor in favor of the amendment stated that it would allow him greater flexibility to supervise. It would also allow him to keep record of dates and times for future reference. The plumbing industry should use new technology to improve the industry.

Response: The Board appreciated and agreed with the comment.

One commentor supported the amendment. He has qualified staff that can work under virtual supervision competently.

Response: The Board appreciated and agreed with the comment.

The comments in opposition largely repeated similar concerns. The summary of comments and the concerns raised are as follows:

PHCC Board of Directors provided comment in opposition to the rule amendment. Virtual Supervision is a poor substitute for in-person supervision and does not adequately train registrants. This rule will allow an untrained individual to do work they are not qualified to perform. PHCC has concerns that the rule change would increase liability to the master plumber who is responsible for the work performed by their apprentice. The amendment raised risk of loss of time and money to homeowners who are seeking repairs that may not be correctly performed. The industry's insurance cost will increase and plumbers' reputation will be damaged when virtually supervised individuals do not have their work supervised in person.

One comment identified that enforcement of the rule would be difficult. No incentive should be provided for a registrant to remain an apprentice and not proceed up the career ladder.

One comment raised the issue that virtual supervision would not work. Tight spaces in plumbing installations would make it difficult to work and hold a phone to show the area to a supervisor who was virtually supervising the remote individual. Additionally, some areas do not have cell service which would not allow vir-

tual supervision. The lack of in-person supervision would raise the risk of property damage or personal injury.

One commentor raised the issue of privacy to homeowners. Many homeowners would not want their homes videoed in a virtually supervised work.

One commentor felt the rule was ambiguous and advocates going back to an earlier rule draft.

One commentor opposed loosening regulation. The amendment provides a disincentive for apprentices to move up the career ladder.

One commentor opposed the rule as it will not have positive effects on the trade and could be potentially dangerous.

One commentor opposed the rule advocating that hands-on training is critical. Supervision should not cut corners with video calls.

One commentor remarked in opposition that virtual supervision will leave apprentices without support. They will make errors and be stressed without the safety net of in-person supervision. They will miss out on training and risk burn-out and leave the trade.

One commentor opposed the amendment because of the negative impact on customer trust and perception of the industry. This negatively impacts professionalism of the industry.

One commentor opposed the amendment because claims of negligence and property damage would increase if an apprentice could not perform or if cell service failed. Claims of discrimination would be made by an apprentice that was physically unable to manipulate a phone or iPad and tools at the same time. The stress caused by lack of in-person oversight would result in employee turnover. Lastly, insurance rates would increase due to increased property damaged caused by errors.

Response: The Board considered and appreciated the comment of all commentors but largely disagreed with the comments in opposition. The Board responded to all the comments in opposition by remarking that this is the third proposed rule effort made by the Board to address virtual supervision over the course of a year. The earlier rule proposals were not adopted, but proposed rule language rather was changed and narrowed in response to similar public input and comment which results in the narrowly crafted rule proposal considered for adoption at this meeting.

The rule draft being considered allows remote, virtual supervision of registrants and licensees that hold 4000 hours of training and two successfully tested endorsements. Additionally, the work that can be virtually supervised is limited to residential repair and replacement on non-gas appliances. This ensures that trained and tested professionals are the only individuals that can work under virtual supervision. Those trained and tested professionals can only work on limited jobs. The higher level of successfully completed training and testing ensures that a newly registered apprentice will not be supervised virtually.

The rule change will have limited impact because there are only approximately 1000 endorsement holders that meet the qualifications at this time. Among those qualified, the sponsoring and supervising Responsible Master Plumber must choose to use to utilize virtual supervision if they feel it their best professional judgement it is appropriate for the job. If they don't feel it is appropriate, they don't have to use it.

The rule amendment is a change in the definition of direct supervision. It does not create an affirmative duty on any individual to

engage or not engage in remote supervision. It is simply an option for a Responsible Master Plumber to choose to supervise individuals in a limited circumstance if they decide it is appropriate and beneficial to do so given the job site, staff, and technology available to them. New technology that allows virtual supervision is a modern benefit to the industry should a Responsible Master Plumber feel it is appropriate to use in their discretion.

Local jurisdictions are using virtual inspections of plumbing installations to help service their workload. As such, the use of the technology to review and inspect job sites and work has proven successful and efficient.

Virtual supervision's limited use allows trained and qualified individuals the opportunity to service residential service calls in a timely and cost-effective manner which better serves the public.

Two commentors provided comment that did not address the rule as posted.

BOARD ACTION

At its meeting on December 11, 2024, the Board adopted the proposed rule as published in the *Texas Register* with the non-substantive inclusion of the word "remote" to clarify the virtual supervision amendment.

STATUTORY AUTHORITY

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

§361.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

(1) APA--The Administrative Procedure Act, Chapter 2001 of the Texas Government Code.

(2) Adopted Plumbing Code--A plumbing code, including a fuel gas code adopted by the Board or a political subdivision, in compliance with §1301.255 and §1301.551 of the Plumbing License Law.

(3) Advisory Committee--A committee appointed by the presiding officer of the board created to assist the board in exercising its powers and duties.

(4) Appliance Connection--An appliance connection procedure using only a code-approved appliance connector that does not require cutting into or altering the existing plumbing system.

(5) Applicant--An individual seeking to obtain a license, registration or endorsement issued by the Board.

(6) Board--The Texas State Board of Plumbing Examiners.

(7) Board Member--An individual appointed by the governor and confirmed by the senate to serve on the Board.

(8) Building Sewer--The part of the sanitary drainage system outside of the building, which extends from the end of the building drain to a public sewer, private sewer, private sewage disposal system, or other point of sewage disposal.

(9) Certificate of Insurance--A form submitted to the Board certifying that the Responsible Master Plumber carries insurance coverage as specified in the Plumbing License Law and Board Rules.

(10) Chief Examiner--An employee of the Board who, under the direction of the Executive Director, coordinates and supervises the activities of the Board examinations and registrations.

(11) Cleanout--A fitting, other than a p-trap, approved by the adopted plumbing code and designed to be installed in a sanitary drainage system to allow easy access for cleaning the sanitary drainage system.

(12) Code-Approved Appliance Connector--A semi-rigid or flexible assembly of tube and fittings approved by the adopted plumbing code and designed for connecting an appliance to the existing plumbing system without cutting into or altering the existing plumbing system.

(13) Code-Approved Existing Opening--For the purposes of drain cleaning activities described in §1301.002(3) of the Plumbing License Law, a code-approved existing opening is any existing cleanout fitting, inlet of any p-trap or fixture, or vent terminating into the atmosphere that has been approved and installed in accordance with the adopted plumbing code.

(14) Complaint--A written complaint filed with the Board against a person whose activities are subject to the jurisdiction of the Board.

(15) Contested Case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing.

(16) Continuing Professional Education or CPE--Approved courses/programs required for a licensee or registrant.

(17) Director of Enforcement--An employee of the Board who meets the definition of "Field Representative" and, under the direction of the Executive Director, coordinates and supervises the activities of the Field Representatives.

(18) Direct Supervision--

(A) The on-the-job oversight and direction of a registered Plumber's Apprentice or licensee performing plumbing work by a licensed plumber who is fulfilling his or her responsibility to the client and employer by ensuring the following:

(i) that the plumbing materials for the job are properly prepared prior to assembly according to the material manufacturers recommendations and the requirements of the adopted plumbing code; and

(ii) that the plumbing work for the job is properly installed to protect health and safety by meeting the requirements of the adopted plumbing code and all requirements of local and state ordinances, regulations and laws.

(iii) Direct supervision may include remote virtual audio-visual, real-time communication for repair and replacement of existing fixtures, not involving gas appliances, on one and two family dwellings performed only by licensees and registrants with:

(I) 4000 hours of documented experience;

(II) a current Residential Utilities Installer Registration; and

(III) a current Drain Cleaner registration.

(B) The on-the-job oversight and direction by a licensed Plumbing Inspector of an individual training to qualify for the Plumbing Inspector Examination.

(C) For plumbing work performed only in the construction of a new one-family or two-family dwelling in an unincorporated area of the state, a Responsible Master Plumber is not required to provide for the continuous or uninterrupted on-the-job oversight of a Reg-

istered Plumber's Apprentice's work by a licensed plumber, however, the Responsible Master Plumber must:

(i) provide for the training and management of the Registered Plumber's Apprentice by a licensed plumber;

(ii) provide for the review and inspection of the Registered Plumber's Apprentice's work by a licensed plumber to ensure compliance with subparagraph (A)(i) and (ii) of this paragraph; and

(iii) upon request by the Board, provide the name and plumber's license number of the licensed plumber who is providing on-the-job training and management of the Registered Plumber's Apprentice and who is reviewing and inspecting the Registered Plumber's Apprentice's work on the job, or the name and plumber's license number of the licensed plumber who trained and managed the Registered Plumber's Apprentice and who reviewed and inspected the Registered Plumber's Apprentice's work on a job.

(19) Endorsement--A certification issued by the Board as an addition to a Master Plumber, Plumbing Inspector, or Journeyman Plumber License or a Plumber's Apprentice Registration, including a Drain Cleaner Registration, a Drain Cleaner-Restricted Registration, and a Residential Utilities Installer Registration.

(20) Executive Director--The executive director of the Texas State Board of Plumbing Examiners who is employed by the Board as the executive head of the agency.

(21) Field Representative--An employee of the Board who is:

(A) knowledgeable of the Plumbing License Law and of municipal ordinances related to plumbing;

(B) qualified by experience and training in good plumbing practice and compliance with the Plumbing License Law;

(C) designated by the Board to assist in the enforcement of the Plumbing License Law and Board rules;

(D) licensed by the Board as a plumber; and

(E) hired to:

(i) make on-site license and registration checks to determine compliance with the Plumbing License Law;

(ii) investigate complaints; and

(iii) assist municipal plumbing inspectors in cooperative enforcement of the Plumbing License Law.

(22) Journeyman Plumber--An individual licensed under the Plumbing License Law who has met the qualifications for registration as a Plumber's Apprentice or for licensure as a Tradesman Plumber-Limited, who has completed at least 8,000 hours working under the supervision of a Responsible Master Plumber, who supervises, engages in, or works at the actual installation, alteration, repair, service and renovating of plumbing, and who has successfully fulfilled the examinations and requirements of the Board.

(23) License--A license, registration, certification, or endorsement issued by the Board.

(24) Licensing and Registering--The process of granting, denying, renewing, reinstating, revoking, or suspending a license, registration or endorsement.

(25) Maintenance Man or Maintenance Engineer--An individual who:

(A) is an employee, and not an independent contractor or subcontractor;

(B) performs plumbing maintenance work incidental to and in connection with other employment-related duties; and

(C) does not engage in plumbing work for the general public.

(D) For the purposes of paragraph 25(B), "incidental to and in connection with" includes the repair, maintenance and replacement of existing potable water piping, existing sanitary waste and vent piping, existing plumbing fixtures and existing water heaters. It does not include cutting into fuel gas plumbing systems and the installation of gas fueled water heaters.

(E) An individual who erects, builds, or installs plumbing not already in existence may not be classified as a maintenance man or maintenance engineer. Plumbing work performed by a maintenance man or maintenance engineer is not exempt from state law and municipal rules and ordinances regarding plumbing codes, plumbing permits and plumbing inspections.

(26) Master Plumber--An individual licensed under the Plumbing License Law who is skilled in the design, planning, superintending, and the practical installation, repair, and service of plumbing, who is knowledgeable about the codes, ordinances, or rules and regulations governing those matters, who alone, or through an individual or individuals under his supervision, performs plumbing work, and who has successfully fulfilled the examinations and requirements of the Board.

(27) Medical Gas Piping Installation Endorsement--

(A) A certification entitling the holder of a Master or Journeyman Plumber License to install piping that is used solely to transport gases used for medical purposes including, but not limited to, oxygen, nitrous oxide, medical air, nitrogen, or medical vacuum.

(B) A certification entitling the holder of a Plumbing Inspector License to inspect medical gas and vacuum system installations.

(28) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement--

(A) A certification entitling the holder of a Master or Journeyman Plumber License to install a multipurpose residential fire protection sprinkler system in a one or two family dwelling.

(B) A certification entitling the holder of a Plumbing Inspector License to inspect a multipurpose residential fire protection sprinkler system.

(29) Military service member--A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(30) Military spouse--A person who is married to a military service member who is currently on active duty.

(31) Military veteran--A person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(32) One-Family Dwelling--A detached structure designed for the residence of a single family that does not have the characteristics of a multiple family dwelling, and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(33) Party--A person or state agency named or admitted as a party to a contested case.

(34) Paid Directly--As related to §1301.255(e) of the Plumbing License Law, "paid" and "directly" have the common meanings and "paid directly" means that compensation for plumbing inspections must be paid by the political subdivision to the individual Licensed Plumbing Inspector who performed the plumbing inspections or the plumbing inspection business which utilized the plumbing inspector to perform the inspections.

(35) Person--An individual, partnership, corporation, limited liability company, association, governmental subdivision or public or private organization of any character other than an agency.

(36) Petitioner--A person requesting the Board to adopt, amend or repeal a rule pursuant to §2001.021 of the Texas Government Code and the Board Rules.

(37) Plumbing--

(A) All piping, fixtures, appurtenances, and appliances, including disposal systems, drain or waste pipes, multipurpose residential fire protection sprinkler systems or any combination of these that: supply, distribute, circulate, recirculate, drain, or eliminate water, gas, medical gasses and vacuum, liquids, and sewage for all personal or domestic purposes in and about buildings where persons live, work, or assemble; connect the building on its outside with the source of water, gas, or other liquid supply, or combinations of these, on the premises, or the water main on public property; and carry waste water or sewage from or within a building to the sewer service lateral on public property or the disposal or septic terminal that holds private or domestic sewage.

(B) The installation, repair, service, maintenance, alteration, or renovation of all piping, fixtures, appurtenances, and appliances on premises where persons live, work, or assemble that supply gas, medical gasses and vacuum, water, liquids, or any combination of these, or dispose of waste water or sewage. Plumbing includes the treatment of rainwater to supply a plumbing fixture or appliance. The term "service" includes, but is not limited to, cleaning a drain or sewer line using a cable or pressurized fluid.

(38) Plumbing Company--A person who engages in the plumbing business.

(39) Plumbing Inspection--Any of the inspections required in the Plumbing License Law, including any check of multipurpose residential fire protection sprinkler systems, pipes, faucets, tanks, valves, water heaters, plumbing fixtures and appliances by and through which a supply of water, gas, medical gasses or vacuum, or sewage is used or carried that is performed on behalf of any political subdivision, public water supply, municipal utility district, town, city or municipality to ensure compliance with the adopted plumbing and gas codes and ordinances regulating plumbing.

(40) Plumbing Inspector--Any individual who is employed by a political subdivision or state agency, or who contracts as an independent contractor with a political subdivision or state agency, for the purpose of inspecting plumbing work and installations in connection with health and safety laws, ordinances, and plumbing and gas codes, who has no financial or advisory interests in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Board.

(41) Plumbing License Law or PLL--Chapter 1301 of the Texas Occupations Code.

(42) Pocket Card--A card issued by the Board which:

(A) certifies that the holder has a Responsible Master Plumber License, Master Plumber License, Journeyman Plumber License, Tradesman Plumber-Limited License, Plumbing Inspector License, or a Plumber's Apprentice Registration; and

(B) lists any Endorsements obtained by the holder.

(43) Political Subdivision--A political subdivision of the State of Texas that includes a:

- (A) city;
- (B) county;
- (C) school district;
- (D) junior college district;
- (E) municipal utility district;
- (F) levee improvement district;
- (G) drainage district;
- (H) irrigation district;
- (I) water improvement district;
- (J) water control improvement district;
- (K) water control preservation district;
- (L) freshwater supply district;
- (M) navigation district;
- (N) conservation and reclamation district;
- (O) soil conservation district;
- (P) communication district;
- (Q) public health district;
- (R) river authority; and
- (S) any other governmental entity that:

(i) embraces a geographical area with a defined boundary;

(ii) exists for the purpose of discharging functions of government; and

(iii) possesses authority for subordinate self-government through officers selected by it.

(44) P-Trap--A fitting connected to the sanitary drainage system for the purpose of preventing the escape of sewer gasses from the sanitary drainage system and designed to be removed to allow for cleaning of the sanitary drainage system. For the purposes of drain cleaning activities described in §1301.002(2) of the Plumbing License Law, a p-trap includes any integral trap of a water closet, bidet, or urinal.

(45) Public Water System--A system for the provision to the public of water for human consumption through pipes or other constructed conveyances. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals, but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater, at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if the individual lives in, uses as the individual's place of employment, or works in a place to which drinking water is supplied from the water system.

(46) Respondent--A person charged in a complaint filed with the Board.

(47) Responsible Master Plumber or RMP--A licensed Master Plumber who:

(A) allows the person's Master Plumber License to be used by only one plumbing company for the purpose of offering and performing plumbing work;

(B) is authorized to obtain permits for plumbing work;

(C) assumes responsibility for plumbing work performed under the person's license;

(D) has submitted a certificate of insurance as required by the Plumbing License Law and Board Rules; and

(E) When used in Board forms, applications or other communications by the Board, the abbreviation "RMP" shall mean Responsible Master Plumber.

(48) Registration--A document issued by the Board to certify that the named individual fulfilled the requirements of the PLL and Board Rules to register as a Plumber's Apprentice.

(49) Rule--An agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures.

(50) Supervision--The general oversight, direction and management of plumbing work and individuals performing plumbing work by a Responsible Master Plumber, or licensed plumber designated by the RMP.

(51) System--An interconnection between one or more public or private end users of water, gas, sewer, or disposal systems that could endanger public health if improperly installed.

(52) Tradesman Plumber-Limited Licensee--An individual who has completed at least 4,000 hours working under the direct supervision of a Journeyman or Master Plumber as a registered Plumber's Apprentice, who has passed the required examination and fulfilled the other requirements of the Board, or successfully completed a career and technology education program, who constructs, installs, changes, repairs, services, or renovates plumbing for one-family or two-family dwellings under the supervision of a Responsible Master Plumber, and who has not met or attempted to meet the qualifications for a Journeyman Plumber License.

(53) Two-Family Dwelling--A detached structure with separate means of egress designed for the residence of two families ("duplex") that does not have the characteristics of a multiple family dwelling and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(54) Water Supply Protection Specialist--A Master or Journeyman Plumber who holds the Water Supply Protection Specialist Endorsement issued by the Board to engage in customer service inspections, as defined by rule of the Texas Commission on Environmental Quality, and the installation, service, and repair of plumbing associated with the treatment, use, and distribution of rainwater to supply a plumbing fixture or appliance.

(55) Water Treatment--A business conducted under contract that requires experience in the analysis of water, including the ability to determine how to treat influent and effluent water, to alter or

purify water, and to add or remove a mineral, chemical, or bacterial content or substance. The term also includes the installation and service of potable water treatment equipment in public or private water systems and making connections necessary to complete installation of a water treatment system. The term does not include treatment of rainwater or the repair of systems for rainwater harvesting.

(56) Yard Water Service Piping--The building supply piping carrying potable water from the water meter or other source of water supply to the point of connection to the water distribution system at the building.

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 January 13, 2025.

TRD-202500075

Patricia Latombe

General Counsel

Texas State Board of Plumbing Examiners

Effective date: February 2, 2025

Proposal publication date: August 30, 2024

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

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 56. AGENCY DECISION TO REFUSE LICENSE OR PERMIT ISSUANCE OR RENEWAL AND AGENCY DECISION TO SUSPEND OR REVOKE AFFECTED LICENSE OR PERMIT

31 TAC §56.7

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 7, 2024, adopted an amendment to 31 TAC §56.7, concerning Permits and Licenses Affected, without change to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8056). The rule will not be republished.

The amendment adds cultured oyster mariculture permits (COM) issued by the department under 31 TAC Chapter 58, Subchapter E, to the list of permits and licenses to which the provisions of Chapter 56 apply.

In 2022, the department promulgated Chapter 56 to comply with recommendations of the Texas Sunset Advisory Commission to establish a uniform process to govern department decisions to refuse issuance or renewal of non-recreational licenses and permits for which such processes are not prescribed by statute. The Sunset Commission also recommended a similar process for agency decisions to suspend or revoke such licenses and permits.

In another rulemaking published elsewhere in this issue regarding COM rules, the department adopts the repeal of §58.359, concerning Agency Decision to Refuse to Issue or Renew Permit; Review of Agency Decision. The department has determined that the COM permits are a type of permit to which the Texas Sunset Advisory Commission recommendation applies, and the rule as adopted adds COM permits to the list of permits to which the chapter applies.

The department received no comments opposing adoption of the rule as proposed.

The amendment is adopted under Parks and Wildlife Code, §12.001, which authorizes the department to collect and enforce the payment of all taxes, licenses, fines, and forfeitures due to the department; §12.508, which authorizes the department to refuse to issue or transfer an original or renewal license, permit, or tag if the applicant or transferee has been finally convicted of a violation under the Parks and Wildlife Code or rule adopted or a proclamation issued under the Parks and Wildlife Code; and Chapter 75, which requires the commission to adopt rules to establish a program governing cultivated oyster mariculture, which may establish requirements for the taking, possession, transport, movement, and sale of cultivated oysters; the taking, possession, transport, and movement of broodstock oysters; fees and conditions for use of public resources, including broodstock oysters and public water, and any other matter necessary implement and administer Parks and Wildlife Code, Chapter 75; and Parks and Wildlife Code, §75.0101, which requires the commission to adopt rules to establish requirements for permit applications and application fees; criteria for the approval, transfer, revocation, and suspension of permits; and procedures for hearings related to a permit.

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 January 10, 2025.

TRD-202500067

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: January 30, 2025

Proposal publication date: October 4, 2024

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



CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

SUBCHAPTER A. STATEWIDE OYSTER FISHERY PROCLAMATION

31 TAC §58.21

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 7, 2024, adopted an amendment to 31 TAC §58.21, concerning Taking or Attempting to Take Oysters from Public Oyster Beds: General Rules, without changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8057). The rule will not be republished.

Under Parks and Wildlife Code, §76.115, the department may close an area to the taking of oysters when the commission finds that the area is being overworked or damaged or the area is to be reseeded or restocked. Oyster reefs in Texas have been impacted due to drought, flooding, and hurricanes (Hurricane Ike, September 2008 and Hurricane Harvey, August 2017), as well as high harvest pressure. To date, the department has restored approximately 800 acres of oyster habitat with cultch placement techniques similar to those that will be employed in the areas closed by this rulemaking.

The amendment temporarily prohibits the harvest of oysters for two years within the boundary of the restoration area on two reefs in Conditionally Approved Area TX-6 in Galveston Bay (approximately 529 acres on Dollar Reef and approximately 14 acres on Desperation Reef). The Texas Department of State Health Services (DSHS) regulates shellfish sanitation and designates specific areas where oysters may be harvested for human consumption. The designation of "Conditionally Approved" or "Approved" is determined by DSHS.

The temporary closures are intended to provide sufficient time, following the planting of oyster cultch in the affected areas, for oysters to reach legal size for harvest. Oyster cultch is the material to which oyster spat (juvenile oysters) attach in order to create an oyster bed. The restoration activities also will establish stable substrate and provide suitable conditions for spat settlement and oyster bed development.

The amendment closes 14 acres on Desperation Reef in Galveston Bay for cultch placement through funding generated through H.B. 51 (85th Legislature, 2017), which included a requirement that certified oyster dealers re-deposit department-approved cultch materials in an amount equal to thirty percent of the total volume of oysters purchased in the previous license year. Additionally, construction associated with the Houston Ship Channel (HSC) Expansion Improvement Project resulted in unavoidable adverse impacts to oyster reefs. As a result of the Final Interagency Feasibility Report-Environmental Impact Statement, mitigation efforts to restore oyster reef in Galveston Bay were initiated to compensate for the loss of habitat. In coordination with resources agencies, the United States Corps of Engineers selected areas on Dollar Reef and San Leon Reef for restoration. Both sites were impacted by Hurricane Ike and this area has been the focus of recent department efforts to restore oyster reef. This mitigation project includes restoration on seven separate areas ranging in size from 13 acres to 20 acres. The closure of 529 acres includes this network of seven restoration areas. The closure area is a perimeter surrounding the totality of the restoration areas because the individual areas are close to one another and the department seeks to eliminate potential confusion that could result from closing restoration areas individually. Parts of this area were closed in 2022 and that closure would have expired in 2024 under the terms of current rule; however, due to the additional restoration efforts, the proposed amendment expands the closure area and extends the period of closure for another two years.

The department received no comments opposing adoption of the rule as proposed.

The department received seven comments supporting adoption of the rule as proposed.

The amendment is adopted under Parks and Wildlife Code, §76.301, which authorizes the commission to regulate the taking, possession, purchase and sale of oysters, including pre-

scribing the times, places, conditions, and means and manner of taking oysters.

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 January 7, 2025.

TRD-202500017

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: January 27, 2025

Proposal publication date: October 4, 2024

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



CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

SUBCHAPTER E. CULTIVATED OYSTER MARICULTURE

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 7, 2024, adopted the repeal of §§58.354, 58.359, and 58.360, and amendments to §§58.352, 58.353, 58.355, and 58.356, concerning Cultivated Oyster Mariculture. The amendment to §58.353, concerning General Provisions, is adopted with changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8059) and will be republished. The repeals and amendments to §§58.352, 58.355, and 58.356 are adopted without change and will not be republished.

The change to §58.353, concerning General Provisions, alters subsection (n)(4) to specify re-submergence is required for oysters intended to head directly to market, retail establishments, or restaurants for raw consumption. As proposed, the rule required all oysters that have been out of the water for a time period exceeding the parameters specified by the Department of State Health Services (DSHS) to be re-submerged for a minimum of 14 days prior to harvest. However, both DSHS rules and national shellfish sanitation program standards provide a qualified exception under certain circumstances for oysters for restricted use (such as freezing or other post-harvest processing to ensure they are safe for human consumption). The change acknowledges that exception in order to make such conduct legal.

The 86th Texas Legislature in 2019 enacted House Bill 1300, which added new Chapter 75 to the Texas Parks and Wildlife Code and delegated to the Parks and Wildlife Commission the authority to regulate the process of growing oysters in captivity. In turn, the Texas Parks and Wildlife Commission in 2020 adopted the current regulations governing oyster mariculture (45 TexReg 5916). In brief, those rules established various types of COM permit(s) and the general provisions governing permit privileges and obligations, as well as provisions governing administrative processes such as permit application, issuance, renewal, amendment, and denial, and reporting and recordkeeping requirements. The department was aware at that time that there would be a need to refine and modify the rules, as cultivated oyster mariculture did not exist in Texas prior to that time. In the time since the rules have been in effect, the department and the regulated community have communicated extensively to

identify and develop improvements, which form the substantive basis for much of the rulemaking.

One goal of the rulemaking is to more explicitly denote compliance with applicable requirements of the National Shellfish Sanitation Plan (NSSP), a program administered by United States Food and Drug Administration (FDA) to ensure that molluscan shellfish (oysters, clams, mussels and scallops) moving in interstate commerce are safe for human consumption. Compliance with the NSSP is required for all oysters grown and harvested in Texas to enter interstate commerce.

The amendment to §58.352, concerning Definitions, adds definitions for "Approved area" and "Conditionally Approved area" to clearly articulate that those terms have the meaning assigned by the Texas Health and Safety Code. The amendment also creates new definitions for "Cultivated Oyster Mariculture Harvest Authorization" and "Hatchery." The amendment defines a "Cultivated Oyster Mariculture Harvest Authorization (harvest authorization)" as "a yearly authorization to allow the harvest of mariculture oysters." The stipulation of an annual authorization more clearly aligns with NSSP guidelines that require harvest authorizations be valid only for a one-year period. The authorization will be issued annually to each permit holder and will not result in any additional fees. The amendment defines "hatchery" as "a facility that spawns oyster broodstock," which is intended to explicitly acknowledge that such activities are authorized under a permit issued under this subchapter. The amendment also defines "oyster seed" as "any oyster 1 inch or less in size," which identifies a particular stage of oyster development rather than the broader terminology ("less than legal size") in the current rule.

The amendment to §58.353, concerning General Provisions, consists of several components. The amendment alters subsection (a) to allow a permittee to possess their permit either physically or electronically, which is intended to increase convenience for the regulated community.

The amendment to §58.353 also alters subsections (b) and (c) to more clearly delineate the differences between the two permits issued under the subchapter. The Cultivated Oyster Mariculture Permit is renamed the Cultivated Oyster Mariculture Grow-Out Permit, and the Cultivated Oyster Mariculture - Nursery Only Permit is renamed the Cultivated Oyster Mariculture Nursery-Hatchery Permit. The changes are intended to more clearly and explicitly delineate the activities authorized under a Nursery-Hatchery Permit. As many oyster hatcheries also function as nurseries, staff determined it would be more efficient to group nurseries and hatcheries under a single permit type. The alterations to the permit titles are made throughout the rules as adopted.

The amendment adds new subsection (e), which is current §58.360(1), concerning Prohibited Acts. Current §58.360 is repealed by this rulemaking and its contents have been relocated elsewhere in the rules as necessary. The modification is nonsubstantive.

The amendment alters current subsection (g) to include line-bred descendants of oysters originally from Texas waters as allowable broodstock. Current rules limit broodstock to oysters collected from Texas waters; however, this would allow the descendants of those oysters to be used, which would relieve a permittee from having to perform direct collection of broodstock from the wild each time broodstock is needed. The regulated community requested the change, as oyster hatcheries often retain offspring of broodstock to propagate additional broodstock in or-

der to reduce the impact of continuous collection on wild populations. The department has determined that so long as the offspring have Texas-origin genetics there is little danger to the native genetics of Texas oyster populations.

The amendment to paragraph (1) of current subsection (g) extends the time period during which the department may authorize the importation of oysters under certain conditions from other states for use in oyster mariculture operations. The deadline in the current rule was intended to allow permittees for a limited period of time to utilize genetically acceptable stock produced outside of Texas, after which the department expected all stock to be propagated in Texas facilities using Texas broodstock lineage. Most oysters in the wild are diploid (having two sets of chromosomes); however, triploid (having three sets of chromosomes) oysters are mostly sterile, which makes them desirable for mariculture because they grow significantly faster than diploids and maintain high meat quality year-round (since no energy goes into reproduction). Triploid oysters rarely occur in the wild but can be produced reliably in a hatchery by crossing a diploid female with a tetraploid (four sets of chromosomes) male. However, the development of a Texas lineage tetraploid line has not occurred as quickly as anticipated, which necessitates an extension of the timeline. The amendment also more explicitly delineates the acceptable types of genetic provenance allowed for triploid oysters that can be lawfully imported to Texas for use in oyster mariculture operations. The rule as adopted specifies that the diploid parent must be of Texas origin broodstock, which protects the genetic identities of Texas oysters.

The amendment also adds new subsection (i), which is relocated from current §58.360(2), reorganized and reworded for clarity. As noted previously in this preamble, §58.360 is repealed in this rulemaking. The provision as adopted clarifies that the offense of commingling wild-caught oysters with oysters possessed under the provisions of this subchapter includes possession of wild-caught oysters within COM Grow-Out sites, within COM Nursery-Hatchery sites (except for legally obtained broodstock), or on a vessel operating under a permit issued under the subchapter.

The amendment retitles current subsection (l) to reflect the fact that the rule language addresses the harvest of cultivated oysters in general and does not apply solely to size requirements. The amendment alters current paragraph (1) to reduce the minimum size requirements for legal harvest of cultivated oysters, from 2.5 inches to two inches. The current COM rules stipulate a minimum size limit of 2.5 inches, which was intended primarily to facilitate field identification by department personnel of cultivated oysters (as opposed to cargos of wild oysters). Since the current rules have been in effect, the department has determined that because cultivated oysters are readily distinguishable from wild oysters, the minimum size limit can be reduced, which not only allows cultivated oysters to be marketed sooner, but also introduces additional market opportunities for the regulated community by enabling the sale of smaller oysters that are popular in certain markets. The amendment additionally creates a five percent allowance for undersized oysters (oysters between 1.5 inches and two inches in length) to acknowledge the inherent difficulty, when sorting and harvesting large quantities of oysters, of ensuring that all of them meet the minimum size limit.

The amendment revises paragraphs (2) and (3) of current subsection (l) to separate and more clearly state provisions applicable to oysters coming from Nursery-Hatchery sites in or using waters from Unclassified and Prohibited areas from provisions applicable to oysters coming from sites in or using waters from

Restricted areas. The provisions give the size by which oysters in Nursery-Hatchery facilities located in or using certain waters (e.g., designated by DSHS as Unclassified, Prohibited, or Restricted) must be moved to waters designated by DSHS as Approved or Conditionally Approved, as well as the minimum length of time the oysters must remain in those waters before harvest. These standards are established by the NSSP. Further, the amendment to paragraph (2) also provides that oysters of over one inch in length in a Nursery-Hatchery facility located in or using waters from a Restricted area may be moved, but are subject to "relay regulation" requirements under the NSSP. The amendment adds new paragraph (4) to stipulate explicitly that oysters that are for certain reasons (e.g., tumbling and sorting) out of the water longer than the limits established by DSHS rule (Time-to-Temperature controls in the *Vibrio vulnificus* Management Plan for Oysters) must be re-submerged for at least 14 days prior to harvest, which is necessary to conform with NSSP standards intended to protect human health and safety. As noted earlier in this preamble, an exception for post-harvest processing has been added. Finally, new paragraph (5) clearly establishes that it is unlawful to harvest oysters unless both a valid Grow-Out permit and a valid Cultivated Oyster Mariculture Harvest Authorization are possessed, which is necessary to more explicitly align department rules with the NSSP.

The amendment to §58.353 also alters current subsection (n) to clearly establish that the department will review a permittee's request to add subpermittees to the permit, designate those persons approved for subpermittee status, and may refuse to authorize subpermittees determined to be unqualified for permit issuance. The provisions are necessary to ensure that persons authorized to conduct permitted activities in the absence or in lieu of the permittee are identified, qualified to do so, and not otherwise prohibited or ineligible from being a permittee.

The amendment to current subsection (p) provides for the transfer of permits. Under current rule, COM permits are not transferrable. At the request of the regulated community, the department considers that because the period of validity of a COM permit is ten years and COM activities are typically for-profit commercial ventures, there likely will be scenarios in which the nature of business transactions result in changes in ownership, which could result in disruptive or inconvenient situations resulting from the process of having to issue a new permit each time ownership changes. Therefore, the department is persuaded that a mechanism for transferring permits is reasonable and prudent. The amendment allows for the transfer of a permit upon completion of a transfer request and payment of a \$200 transfer fee.

The amendment also alters the provisions of current subsection (r) to allow required infrastructure gear tags to bear the phone number of the permittee in lieu of the permittee's address.

The amendment to current subsection (s) consists primarily of clarifying changes to nomenclature. The word "harvest" would replace current language referencing the removal of oysters from permitted facilities, clarify that harvest tagging requirements apply to oysters being delivered and/or sold for human consumption, and that all tagging requirements of the subchapter must be met before oysters leave the permitted area.

Finally, the amendment alters current subsection (v) to rename the Oyster Seed Transport Document as the Oyster Transport Authorization and allow for transport of oysters to a temporary location for purposes of tumbling and sorting. The authorization creates a mechanism to document permitted activities involving

the transport of oysters of various lengths outside of permitted sites, and to account for the possession of undersized oysters. The name change better identifies what the authorization is applicable to (i.e., not just oyster seed), and additional language clarifies the process by which authorizations are requested, reviewed, and issued. The rule as adopted requires this documentation to accompany all non-harvest tagged oysters, oyster seed or oyster larvae that are being transported outside of a permitted area. The amendment also creates a mechanism for oysters to be temporarily relocated outside of a permitted area for tumbling and sorting. A common oyster mariculture practice, the tumbling and sorting of oysters is a mechanical process that separates oysters according to size. Many permittees perform tumbling and sorting aboard boats on open water in permitted areas; however, wind and wave energy in Texas bay systems often make tumbling and sorting activities unsafe or unfeasible. The regulated community has requested the creation of some sort of mechanism that would allow the transport of oysters to a nearby location (such as a dock or onshore) to tumble and sort oysters. The department has determined that it is reasonable to allow permittees to transport mariculture oysters to shore on a temporary basis for tumbling and sorting, provided the oysters are then returned to the original permitted site prior to harvest and such oysters are not aboard any boat at the same time that oysters tagged for harvest are aboard.

The repeal of §58.354, concerning Oyster Seed Hatchery, is necessary because the provisions of the section are no longer needed in light of other aspects of this rulemaking.

The amendment to §58.355, concerning Permit Application, alters the subsection to provide for public notice of an application for a permit under the subchapter to be effected via the department's website. The current rule stipulates that the department will "publish notice" of permit applications and hold public meetings. Under current rule, the notices are required to be published in a newspaper. Because the Texas coast is lengthy and for the most part consists of small communities, newspaper publication is not as convenient as it once was and is not as efficient as electronic notification. The department believes it is more efficient to provide all notifications to the public via the department's website and to have the option of conducting the required public meetings virtually or in person. The department notes that it prepares and disseminates weekly press releases on a variety of department activities to hundreds of daily and weekly newspapers, who can then publish whatever is of interest to their readership. The department as well operates an email subscription service to notify interested persons and organizations of agency actions and notices.

The amendment to §58.356, concerning Renewal, alters the current provisions to clearly stipulate that the application fee specified in §53.13(d), concerning Fees, is also the renewal fee, since a submission of a renewal is simply another form of an application.

The repeal of §58.359, concerning Agency Decision to Refuse to Issue or Renew Permit; Review of Agency Decision, is necessary because all department regulations governing such processes were consolidated in 31 TAC Chapter 56 in compliance with the directives of the Texas Sunset Advisory Commission to establish a uniform process to govern department decisions to refuse issuance or renewal of non-recreational licenses and permits for which such processes are not prescribed by statute and prescribe a similar process regarding agency decisions to sus-

pend or revoke a license or permit affected by the new subchapter.

The department received six comments in favor of adoption of the rules as proposed.

The department received seven comments in favor of adoption of the rules except for specific issues:

Three commenters, including the Texas Aquaculture Association, requested a reduction in fees. The department disagrees with the comment and responds that while fees are referenced in the subchapter, actual fee values are stipulated in another chapter and are not germane to this rulemaking. No changes were made as a result of the comments.

Five commenters, including the Texas Aquaculture Association and the Texas Oyster Mariculture Association, requested that permittees be allowed to use triploid oysters that do not have a Texas origin diploid parent so that increased oyster seed supply would be available to permit holders. The department disagrees with the comments and responds that not all triploids produced by a diploid-tetraploid cross are sterile, therefore having a Texas origin diploid parent protects the genetic integrity of the oyster stocks in Texas waters. No changes were made as a result of the comments.

Three commenters requested the elimination of a harvest size limit. The department disagrees with the comments and responds that the rules as proposed reduce the size limit, opening up a wider range of market opportunities for permit holders. Size limits help reinforce the minimum time requirements of oyster seed growing in Approved or Conditionally Approved waters prior to harvest for consumption. No changes were made as a result of the comments.

The department received one comment opposing adoption of the rules as proposed. The Texas Press Association commented in opposition to the proposed changes to the public notice provisions that eliminated the requirement for newspaper publication of an application for a COM permit stating that removing the requirement would deprive the public of an effective way of being informed of pending governmental action. The department disagrees with the comment and responds that very few communities along the Texas Gulf Coast still have a daily or weekly newspaper and that advertising in the few daily or weekly newspapers that do exist is not the most effective method of reaching members of the public who live in remote locations. The department notes that internet access is now widespread, and the department prepares and disseminates weekly press releases on a variety of department activities to hundreds of daily and weekly newspapers, magazines, and other media, who can then publish whatever is deemed to be of interest to their readership. The department as well operates an email subscription service to notify interested persons and organizations of agency actions and notices.

31 TAC §§58.352, 58.353, 58.355, 58.356

The amendments adopted are under the authority of Parks and Wildlife Code, §75.0103, which requires the commission to adopt rules to establish a program governing cultivated oyster mariculture, which may establish requirements for the taking, possession, transport, movement, and sale of cultivated oysters; the taking, possession, transport, and movement of broodstock oysters; fees and conditions for use of public resources, including broodstock oysters and public water, and any other matter necessary to implement and administer Parks

and Wildlife Code, Chapter 75; and Parks and Wildlife Code, §75.0101, which requires the commission to adopt rules to establish requirements for permit applications and application fees; criteria for the approval, transfer, revocation, and suspension of permits; and procedures for hearings related to a permit.

§58.353. *General Provisions.*

(a) No person may engage in cultivated oyster mariculture (COM) in this state unless they have on their person a valid permit issued by the department authorizing the activity. A valid permit may be possessed in physical or electronic format.

(b) A Cultivated Oyster Mariculture (COM) Grow-out Permit authorizes the permittee to purchase, receive, grow, and sell cultivated oysters.

(c) A Cultivated Oyster Mariculture (COM) Nursery-Hatchery Permit authorizes a permittee to:

- (1) hold oyster broodstock and germplasm;
- (2) spawn oyster broodstock;
- (3) purchase, receive, and grow oyster seed and larvae; and
- (4) sell oyster broodstock, germplasm, seed, and larvae;

but

(5) does not authorize the sale of oysters in any form for human consumption.

(d) No person may conduct an activity authorized by a permit issued under this subchapter at any location other than the location specified by the permit.

(e) It is unlawful for a permittee or subpermittee to possess an oyster dredge or oyster tongs within a permitted area or aboard a vessel transporting oysters under the provisions of this subchapter.

(f) The period of validity for a permit issued under this subchapter is 10 years, subject to the limitations of this subchapter.

(g) Unless otherwise specifically authorized in writing by the department, one year from the date of issuance of a COM Grow-Out Permit and by the anniversary of the date of issuance for each year thereafter, the permittee must provide evidence to the department's satisfaction that at least 100,000 oyster seed per acre of permitted area has been planted.

(h) Unless otherwise specifically authorized by the department in writing, cultivated oyster mariculture is restricted to seed and larvae from native Eastern oyster (*Crassostrea virginica*) broodstock collected or originating from Texas waters and propagated in a permitted Nursery-Hatchery located in Texas.

(1) The department may authorize a person permitted under this subchapter to, on or before December 31, 2033, import:

(A) tetraploid seed, larvae, and/or semen/eggs (germplasm) produced in department-approved out-of-state hatcheries located along the Gulf of Mexico for use in cultivated oyster mariculture in this state; and/or

(B) triploid seed, larvae, and/or semen/eggs (germplasm) from a tetraploid line of oysters originating from the Gulf of Mexico crossed with broodstock originating from Texas waters produced in department-approved out-of-state hatcheries located along the Gulf of Mexico for use in cultivated oyster mariculture in this state; and/or

(C) diploid seed, larvae, and/or semen/eggs (germplasm) produced from Texas broodstock at department-approved

out-of-state hatcheries located along the Gulf of Mexico for use in cultivated oyster mariculture in this state.

(2) A department authorization made under the provisions of this subsection must be in writing and provide for any permit conditions the department deems necessary.

(3) The department will not authorize the possession of any oyster, larvae, or oyster seed that the department has determined, in the context of the prospective activity, represents a threat to any native oyster population, including to genetic identity.

(i) It is unlawful to possess wild caught oysters:

- (1) within a COM Grow-Out permitted area;
- (2) within a COM Nursery-Hatchery permitted area unless:
 - (A) they are legally obtained;
 - (B) labeled as to their identity and use for broodstock;

and

(C) held separately from cultivated oysters; or

(3) on a vessel operating under a permit issued under this subchapter.

(j) The department may:

(1) inspect any permitted area, facility, infrastructure, container, vessel, or vehicle used to engage in cultivated oyster mariculture;

(2) sample any oyster in a permitted area, facility, container, vessel, or vehicle used to engage in cultivated oyster mariculture in order to determine genetic lineage; and

(3) specify any permit provisions deemed necessary.

(k) The holder of a COM Permit (Grow-out or Nursery-Hatchery) must notify the department within 24 hours of the:

(1) discovery of any disease condition within a permitted area; and

(2) discovery of any condition, manmade or natural, that creates a threat of the unintentional release of stock or larvae.

(3) The requirements of this subsection do not apply to the discovery of dermo (*Perkinsosis*, *Perkinsus marinus*).

(1) The department may take any action it considers appropriate, including ordering the removal of all stock and larvae from a permitted area or facility and the cessation of permitted activities, upon:

(1) a determination that a disease condition other than dermo (*Perkinsosis*, *Perkinsus marinus*) exists; or

(2) the suspension or revocation by a federal or state entity of a permit or authorization required under §58.355 of this title (relating to Permit Application).

(m) The department may order the suspension of any or all permitted activities, including the removal of all stock and larvae from a permitted area or facility, upon determining that a permittee is not compliant with any provision of this subchapter, which suspension shall remain in effect until the deficiency is remedied and the department authorizes resumption of permitted activities in writing.

(n) Harvest Requirements .

(1) No person may harvest for the purpose of delivery and/or sale for human consumption any oyster less than 2.0 inches in length (measured along the greatest length of the shell) from a COM Grow-Out permitted area; however, a cargo of oysters may contain

oysters between 1.5 inches and 2 inches (measured along the greatest length of the shell); provided such oysters constitute five percent or less of the cargo in question.

(2) Oysters produced under a Nursery-Hatchery permit in waters or using waters from an area classified as Prohibited or Unclassified must be transferred to a COM permitted Grow-Out location in waters classified as Approved or Conditionally Approved before they reach one inch in length (as measured along the greatest length of the shell) and held in that area for a minimum of 120 days before harvest.

(3) Oysters produced under a Nursery-Hatchery permit in waters or using waters from an area classified as Restricted must be transferred to a COM permitted Grow-Out location in waters classified as Approved or Conditionally Approved before they reach one inch in length (as measured along the greatest length of the shell) and held in that area for a minimum of 60 days before harvest. Oysters greater than one inch may be transferred from these facilities but are subject to relay regulation requirements under the NSSP.

(4) Oysters that are out of the water for a time period exceeding the parameters specified by the Time-to-Temperature controls established by DSHS in 25 TAC §241.68, relating to *Vibrio vulnificus* Management Plan for Oysters, must be re-submerged for a minimum of 14 days prior to harvest for market for raw consumption. Records regarding re-submergence must be maintained in accordance with permit provisions.

(5) It is unlawful for a permittee to harvest oysters under this subchapter unless they have a Grow-Out permit and a Cultivated Oyster Mariculture Harvest Authorization.

(o) Harvest of oysters under this subchapter is unlawful between sunset and sunrise.

(p) Except as may be specifically provided otherwise in this section, activities authorized by a permit issued under this subchapter shall be conducted only by the permittee or subpermittees named on the permit.

(1) A permittee may designate subpermittees to perform permitted activities in the absence of the permittee.

(A) The permittee shall submit a subpermittee request on a form provided by the department that is signed and dated by both the permittee and subpermittee.

(B) The department will review the request and issue a list of individuals authorized as subpermittees.

(C) The department may refuse to approve a subpermittee if that person would not be eligible to be a permittee under this subchapter.

(2) At all times that a subpermittee is conducting permitted activities, the subpermittee shall have on their person a valid permit and subpermittee list in physical or electronic format

(3) It is an offense for a permittee to allow any permitted activity to be performed by a person not listed with the department as a subpermittee as required under this subsection.

(4) A permittee and subpermittee are jointly liable for violations of this subchapter or the provisions of a permit issued under this subchapter.

(q) A permittee shall, prior to the placement of any infrastructure within a permitted area located in or on public water:

(1) mark the boundaries of the permitted area with buoys or other permanent markers and continuously maintain the markers until

the termination of the permit. All marker, buoys, or other permanent markers must:

(A) be at least six inches in diameter;

(B) extend at least three feet above the water at mean high tide;

(C) be of a shape and color that is visible for at least one half-mile under conditions that do not constitute restricted visibility; and

(D) be marked with the permit identifier assigned by the department to the permitted area, in characters at least two inches high, in a location where it will not be obscured by water or marine growth; and

(2) install safety lights and signals required by applicable federal regulations, including regulations of the United States Coast Guard (U.S.C.G.) and must be functional. A permittee shall repair or otherwise restore to functionality any light or signal within 24 hours of notification by the U.S.C.G or the department.

(r) Transfer of Permit. The department may approve the transfer of a permit.

(1) A transfer request must be submitted to the department for approval on a form provided by the department, accompanied by the application fee specified in §53.13 of this title (relating to Business License and Permits (Fishing)).

(2) The department may refuse to approve a transfer if that person would not be eligible to be a permittee under this subchapter.

(3) A transfer does not change the terms, conditions, or provisions of a permit.

(s) Permittees must remove, at the expense of the permittee, all containers, enclosures and associated infrastructure from public waters within 60 calendar days of permit expiration or revocation.

(t) A valid gear tag must be attached to each piece of component infrastructure (e.g., containers, cages, bags, sacks, totes, trays, nursery structures) within a permitted area. The gear tag must bear the name and either address or phone number of the permittee and the permit identifier of the permitted area. The information on a gear tag must be legible.

(u) It is unlawful for any person to harvest oysters from a COM Grow-Out area for purposes of delivery and/or sale for human consumption unless the oysters are in a container that has been tagged in accordance with the applicable provisions of the NSSP concerning shellstock identification, and this subchapter. Tagging must occur prior to leaving the permitted area.

(v) Except as provided by subsection (u) of this section for harvested oysters transported for delivery and/or sale for human consumption, it is unlawful for any person to possess oysters, oyster seed, or oyster larvae outside of a permitted area unless the person also possesses a department-issued Oyster Transport Authorization or the department has authorized in a permit provision the transport of oysters for tumbling and sorting:

(1) Oyster Transport Authorization

(A) An Oyster Transport Request must be submitted to the department prior to the transport date and:

(i) be on a form provided or approved by the department;

(ii) contain the name, address, and, if applicable, permit identifier from whom the oysters, oyster seed, or oyster larvae were obtained;

(iii) contain the name, address, and permit identifier to whom the oyster, oyster seed, or oyster larvae are to be delivered; and

(iv) precisely account for and describe all containers in possession.

(B) The department will review the request and, if approved, will issue an Oyster Transport Authorization specific to the oysters, oyster seed, or oyster larvae being transported.

(2) Permit Provision Authorization for Tumbling and Sorting outside of permitted area

(A) The department may authorize, within a permit's provisions, a permittee to transport oysters to a specified location outside of their permitted area for tumbling and sorting oysters.

(B) Oysters must be returned to the permitted area after tumbling and sorting before harvest.

(C) It is unlawful to transport oysters for tumbling and sorting while in possession of oysters tagged for harvest.

(w) A vessel used to engage in activities regulated under this subchapter shall prominently display an identification plate supplied by the department at all times the vessel is being used in such activities.

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 January 10, 2025.

TRD-202500068
James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: January 30, 2025
Proposal publication date: October 4, 2024
For further information, please call: (512) 389-4775



31 TAC §§58.354, 58.359, 58.360

The repeals are adopted under the authority of Parks and Wildlife Code, §75.0103, which requires the commission to adopt rules to establish a program governing cultivated oyster mariculture, which may establish requirements for the taking, possession, transport, movement, and sale of cultivated oysters; the taking, possession, transport, and movement of broodstock oysters; fees and conditions for use of public resources, including broodstock oysters and public water, and any other matter necessary implement and administer Parks and Wildlife Code, Chapter 75; and Parks and Wildlife Code, §75.0101, which requires the commission to adopt rules to establish requirements for permit applications and application fees; criteria for the approval, transfer, revocation, and suspension of permits; and procedures for hearings related to a permit. The repeals affect Parks and Wildlife Code, Chapter 75.

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 January 10, 2025.

TRD-202500069
James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: January 30, 2025
Proposal publication date: October 4, 2024
For further information, please call: (512) 389-4775



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER D. RURAL LAW ENFORCEMENT SALARY ASSISTANCE PROGRAM

34 TAC §§16.300, 16.303 - 16.305

The Comptroller of Public Accounts adopts amendments to §16.300, concerning definitions, §16.303, concerning awards; grant agreement, §16.304, concerning authorized uses of grant funds; limitations, and §16.305, concerning reporting and compliance, without changes to the proposed text as published in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9187). The rules will not be republished.

The amendments to §16.300 modify the current definition of "county jailer" to simplify the term to "jailer" and clarify a permanent or temporary county jailer license is acceptable, by deleting the definition of "county jailer" in paragraph (2) and adding the definition of "jailer" in new paragraph (9). The amendments add a definition for "investigator" in new paragraph (8). The amendments also add to the definition of "safety equipment" in paragraph (13) that software is not included in the term unless it is purchased in connection with the purchase of tangible safety equipment and is necessary for that safety equipment to be functional.

The amendments to §16.303 modify subsection (d) to further explain that a legal obligation to expend funds requires an effective, binding contract. The amendments add new subsection (f), which clarifies who must electronically sign a grant agreement. The amendments also add new subsection (g) clarifying a qualified county may receive grants for their sheriff's office, constable's office, and prosecutor's office, including a prosecutor's office receiving more than one grant.

The amendments to §16.304 amend subsection (a) to clarify the minimum annual salary requirement applies to vacant positions upon hiring as described in this subsection and update the citations and grammar. The amendments delete duplicate language in subsection (a)(1) relating to the definitions of "deputy sheriff" and "jailer." The amendments relocate the language previously in subsection (d) to subsection (i) and add new language to subsection (d) to clarify impermissible uses of grant funds. The amendments make non-substantive changes to subsection

(f). The amendments add new subsection (i), which describes the authorized uses of grant funds and limitations on uses of grant funds with new examples. The amendments add new subsection (j), which describes the authorized uses of grant funds and limitations specific to additional employees hired with grant funds, and includes examples. The amendments add new subsection (k) to clarify when vehicle leases are considered purchases under subsection (a)(2)(C).

The amendments to §16.305 amend subsection (c) to provide that the comptroller may require a grant recipient to cure, to the satisfaction of the comptroller, a failure to comply with the requirements of subsection (b). The amendments add new subsection (d) to clarify the person who must electronically provide information and sign and certify the compliance report.

The comptroller did not receive any comments regarding adoption of the amendments.

These amendments are adopted under Local Government Code, §§130.911, 130.912 and 130.913, which authorize the comptroller to adopt rules to efficiently and effectively administer a grant program to provide financial assistance to qualified

sheriff's offices, constable's offices, and prosecutor's offices in rural counties.

The amendments implement Local Government Code, §§130.911, 130.912 and 130.913.

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 January 10, 2025.

TRD-202500071

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: January 30, 2025

Proposal publication date: November 15, 2024

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





IN ADDITION

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

Office of the Attorney General

Texas Water Code and Texas Health and Safety Code
Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Ranger Utility Company*; Cause No. D-1-GN-21-006154, in the 250th Judicial District, Travis County, Texas.

Background: Ranger Utility Company ("Ranger") owns and operates three public water systems at Cypress Brook Estates, Lakeside Estates, and Woodland Estates in Harris, Waller, and Bowie Counties respectively. The State filed suit against Ranger for its violations of state law and regulations governing public drinking water systems in Texas, and noncompliance with multiple administrative orders issued by the Texas Commission on Environmental Quality ("TCEQ") since at least 2013. After suit was filed, Ranger has been working with TCEQ to undertake corrective actions at the three public water systems.

Proposed Settlement: The State and Ranger propose an agreed final judgment that includes a permanent injunction against Ranger, and awards the State civil penalties in the amount of \$25,000.00; past due administrative penalties totaling \$15,013.38; unpaid public health services fees totaling \$3,062.70; and attorney's fees of \$3,000.00.

For a complete description of the proposed settlement, the Agreed Final Judgment and Permanent Injunction should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Brittany Wright, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC-066, Austin, Texas 78711-2548, (512) 475-4239, facsimile (512) 320-0911, email: Brittany.Wright@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202500077
Justin Gordon
General Counsel
Office of the Attorney General
Filed: January 13, 2025

Coastal Bend Workforce Development Board

Request for Proposals for General Contractor Services Mission
Plaza Phase III RFP 25-01

Workforce Solutions Coastal Bend (WFSCB) is soliciting proposals from entities or individuals qualified and experienced to serve as the General Contractor for the third phase of an office space buildout of 6,120 square feet located in the Mission Plaza Shopping Center at 4981 Ayers Road, Corpus Christi, Texas 78415.

The RFP will be available on Monday, January 27, 2025 at 2:00 p.m. Central Time and can be accessed on our website at: <https://www.workforcesolutionscb.org/about-us/procurement-opportunities/> or by contacting Nelda Rios Nelda.Rios@workforcesolutionscb.org or (361) 885-3020.

Interested parties are encouraged to attend a **Pre-Proposal meeting** at WFSCB's Administrative Offices located at 400 Mann Street, Suite 800, Corpus Christi, Texas 78401, Main Conference Room on **Monday, February 3, 2025 at 10:00 a.m. Central Time**. The purpose of the meeting is to review the RFP requirements and answer any questions related to the RFP. While this meeting is not mandatory, attendance is strongly recommended. Parties unable to attend in person may participate virtually from a computer, tablet, or smart phone via Zoom:

Join Zoom Meeting

<https://us02web.zoom.us/j/82246075804?pwd=PmFh-hztjyXKz7v9bRKVON33p1vyVBU.1>

US Toll-Free Call In: (888) 475-4499

Meeting ID: 822 4607 5804

Passcode: 631770

Proposals are due by Tuesday, February 18, 2025 at 4:00 p.m. Central Time and may be submitted via email to Nelda.Rios@workforcesolutionscb.org or hand delivered or mailed to: Workforce Solutions Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: 1 (800) 735-2989 (TDD) and 1 (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

TRD-202500110
Alba Silvas
Chief Operating Officer
Coastal Bend Workforce Development Board
Filed: January 15, 2025

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/20/25- 01/26/25 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/20/25- 01/26/25 is 18.00% for commercial² credit.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202500098

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 14, 2025



Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application was received from Space City Credit Union (Houston) seeking approval to merge with Texas Dow Employees Credit Union (Lake Jackson), with Texas Dow Employees Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202500107

Michael S. Riepen

Commissioner

Credit Union Department

Filed: January 15, 2025



Applications to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department (Department) and are under consideration.

An application was received from 1st University Credit Union #1, Waco, Texas, to expand its field of membership. The proposal would permit persons who live, worship, work, or attend school and businesses and other legal entities in Bosque County, Texas, to be eligible for membership in the credit union.

An application was received from 1st University Credit Union #2, Waco, Texas, to expand its field of membership. The proposal would permit persons who live, worship, work, or attend school and businesses and other legal entities in Erath County, Texas, to be eligible for membership in the credit union.

An application was received from 1st University Credit Union #3, Waco, Texas, to expand its field of membership. The proposal would permit persons who live, worship, work, or attend school and businesses and other legal entities in McLennan County, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202500106

Michael S. Riepen

Commissioner

Credit Union Department

Filed: January 15, 2025



State Board for Educator Certification

Correction of Error

The State Board for Educator Certification (SBEC) proposed amendments to 19 TAC Chapter 249 in the January 10, 2025, issue of the *Texas Register* (50 TexReg 251).

Due to error as submitted by the Texas Education Agency (TEA), the word "employer" was incorrectly included in 19 TAC §249.17(d)(1)(B). The word "employer" should read as "employment." The text should have read as follows:

(B) relocation to a new city as a result of change in employment [~~employer~~] of the educator's spouse or partner who resides with the educator as supported by documentation;

Additionally, SBEC published proposed new 19 TAC §231.701 in the January 10, 2025, issue of the *Texas Register* (50 TexReg 236). Also due to error as submitted by the TEA, the proposed new Figure: 19 TAC §231.701(d) included incorrect text. The figure should have been published without the language in the heading that reads, "ATTACHMENT II" and "Text of." The corrected figure follows:

Figure: 19 TAC §231.701(d)

TEXAS CONTENT COMPETENCY WORKSHEET FOR SPECIAL EDUCATION TEACHERS OF RECORD
(GRADES EC-12)
FOR USE BEGINNING IN THE 2025-2026 SCHOOL YEAR

Directions: The following sections of the Texas Content Competency Worksheet for Special Education Teachers of Record (Grades EC-12) must be completed only for those educators who do not hold the appropriate grade-banded, content area certification for their current role, per 19 TAC §231.701.

Note: A copy of the Texas Content Competency Worksheet for Special Education Teachers of Record (Grades EC-12) should be filed in the educator's Human Resources file and provided to the educator for their records. A copy of this worksheet completed by a special education teacher's previous administration should be considered valid and re-filed by the receiving district in the event the educator transitions to a new district within the State of Texas.

<u>Table of Contents</u>	<u>Section A: General Information</u>
	<u>Section B: Special Educators Utilizing Previous Subject Matter Competency Provisions</u>
	<u>Section C: Elementary Special Education Teachers of Record Content Competency Requirements</u>
	<u>Section D: Secondary Special Education Teachers of Record Content Competency Requirements</u>
	<u>Section E: For First-Year Special Education Teachers of Record Only</u>
	<u>Section F: Administrator Attestation</u>
	<u>Section G: Appendix (PACT Alignment Chart, Closely Related Fields, Residency Information, and Definitions)</u>

SECTION A: GENERAL INFORMATION

Teacher Name:

TEA ID #:

Date Completed:

- Administrator has verified the teacher holds a valid, SBEC-approved special education certification appropriate for the grade level of assignment and instruction.**

SECTION B: SPECIAL EDUCATORS UTILIZING PREVIOUS SUBJECT MATTER COMPETENCY PROVISIONS

For those educators utilizing previous subject matter competency provisions through state's 2010 and 2011 high objective uniform State standard of evaluation for elementary and secondary special education teachers (HOUSSE) prior to 9/1/2025, campus administration attests to the following:

- **Administrator attests that the special education teacher met previous HOUSSE provisions prior to 9/1/2025 at either the Elementary or Secondary Level**
- **Administrator attests that the special education teacher has demonstrated the required subject matter content knowledge to continue to serve in their assigned placement**

NOTE: ADMINISTRATOR ATTESTATION CAN BE FOUND BELOW IN SECTION F OF THIS DOCUMENT

SECTION C: ELEMENTARY SPECIAL EDUCATION TEACHER OF RECORD CONTENT COMPETENCY REQUIREMENTS (GRADES EC-5)

An elementary special education teacher of record must demonstrate competency in each core content area. Teachers must reach a combined total of at least 24 points across all content areas with no areas having less than 3 points. The following may be combined to reach the required points:

	<u>Math</u>	<u>Science</u>	<u>Social Studies</u>	<u>ELAR</u>
<u>Obtained a passing score on an aligned PACT exam (See Section G of this document)</u>	_____pts	_____pts	_____pts	_____pts
<u>College credit hours in the content area (1 point for each credit hour)</u>	_____pts	_____pts	_____pts	_____pts
<u>Elementary and/or secondary teaching experience in the content area (3 points for each year of experience)</u>	_____pts	_____pts	_____pts	_____pts
<u>Documented relevant professional development aligned to the content area completed within the last three years at the elementary level that meet standard for CPE credit, outside of development required for successful completion of Texas Reading Academies (1 point for 3 hours of qualifying professional development)</u>	_____pts	_____pts	_____pts	_____pts
<u>Completed an approved residency placement* under the supervision of a special education teacher of record in the content area* (3 points)</u>	_____pts	_____pts	_____pts	_____pts

<u>Experience as a paraprofessional under the supervision of a special education teacher of record in the content area (1 point per year)</u>	___ pts	___ pts	___ pts	___ pts
<u>Science of Teaching Reading Exam and Texas Reading Academies:</u> <ul style="list-style-type: none"> • <u>Passing score on Science of Teaching Reading Exam and Documented completion of Texas Reading Academies (12 Points)</u> • <u>Passing score on Science of Teaching Reading Exam or Documented completion of Texas Reading Academies (9 points)</u> 				___ pts
<u>Totals Per Content Area:</u>				
Total Combined Points:				/24

SECTION D: SECONDARY SPECIAL EDUCATION TEACHERS OF RECORD CONTENT COMPETENCY REQUIREMENTS (GRADES 6-12)

A secondary special education teacher of record must demonstrate competency in each core content area for which they are assigned. The following may be combined to reach the required 18 points in each area:

	<u>Math</u>	<u>Science</u>	<u>Social Studies</u>	<u>ELAR</u>
<u>Holds a minor or major in the content area (18 points)</u>	___ pts	___ pts	___ pts	___ pts
<u>Obtained a passing score on an aligned PACT exam (See Section G of this document)</u>	___ pts	___ pts	___ pts	___ pts
<u>College credit hours in the content area assigned or closely related field (1 point for each credit hour)</u>	___ pts	___ pts	___ pts	___ pts
<u>Secondary teaching experience in the content area or closely related field (3 points for each year of experience)</u>	___ pts	___ pts	___ pts	___ pts
<u>Documented relevant professional development aligned to the content area or closely related field completed within the last three years at the secondary level that meet standard for CPE credit, outside of development required for successful completion of Texas Reading Academies (1 point for 3 hours of qualifying professional development)</u>	___ pts	___ pts	___ pts	___ pts

<u>Completed an approved residency placement under the supervision of a special education teacher of record in the content area or closely related field (3 points)</u>	_____ pts	_____ pts	_____ pts	_____ pts
<u>Experience as a paraprofessional under the supervision of a special education teacher of record in the content area or closely related field (1 point per year)</u>	_____ pts	_____ pts	_____ pts	_____ pts
<u>Science of Teaching Reading Exam and Texas Reading Academies:</u> <ul style="list-style-type: none"> • <u>Passing score on Science of Teaching Reading Exam and Documented completion of Texas Reading Academies (12 Points)</u> • <u>Passing score on Science of Teaching Reading Exam or Documented completion of Texas Reading Academies (9 points)</u> 				_____ pts
Totals:	/18	/18	/18	/18

Section E: FOR FIRST YEAR SPECIAL EDUCATION TEACHERS OF RECORD ONLY

For the purposes of the Texas Core Content Competency Worksheet a first-year teacher:

- holds a standard, intern, or probationary certificate,
- is a teacher for whom the applicable year is the first year of providing instruction, AND
- who does not hold the appropriate grade-banded, content area certification for their current role OR does not meet the content competency requirements detailed above for the grade band of their assignment.

Authorized administrators must provide teachers considered to be a first-year teacher with the following year-long runway to meet the content requirements as outlined in Sections C or D (e.g., professional development, passing score on an aligned PACT exam, seeking content certification, etc.):

Start Date: / / _____

End Date: / / _____

ADMINISTRATOR ATTESTATION CAN BE FOUND BELOW IN SECTION F OF THIS DOCUMENT

Section F: ADMINISTRATOR ASSURANCES

The administrator completing this worksheet assures that the teacher identified above has met the following requirements as specified in the appropriate section(s) above (Mark the assurance that applies):

- The teacher meets subject matter competency provisions via HOUSSE prior to 9/1/25 through the attestation in Section B of this document.**
- The teacher meets the minimum point threshold for content competency in each area in which the teacher is assigned in Section C or Section D of this document.**
- The teacher meets provisions for first year teachers in Section E of this document.**

In addition to the assurances above, the administrator also attests:

- The teacher's campus administration will assist the teacher in seeking out continuing professional education (CPE), as required by 19 TAC §232.11, that addresses both the CPE requirements for the teacher's special education certificate renewal and education related specifically to the content area(s) for which the teacher is assigned to support or teach.**

AUTHORIZED ADMINISTRATOR SIGNATURE:

AUTHORIZED ADMINISTRATOR NAME (PRINTED):

DATE:

Section G: Appendix

I. PACT Alignment

PACT Core Subjects Exams

If a special education teacher of record obtains a passing score on the 701/702/703 TX PACT Essential Academic Skills (Reading, Writing, and Mathematics) and

- serves in an EC-5 placement, the teacher may count 12 points each for both math and ELAR, for a total of 24 points**
- serves in a 6th grade placement, the teacher may count 18 points each for ELAR and Math**
- There is no point value assigned for a passing score on the 701/702/703 TX PACT Essential Academic Skills for teachers serving in grade 7-12 placements.**

If a special education teacher of record obtains a passing score on the 790 TX PACT Core Subjects: 4-8 exam and

- serves in a 4-8 placement, the teacher has satisfied the content requirement in all four core content areas for that assignment.**
- and serves in an EC-3rd grade placement, the teacher may count 9 points each for math, science, social studies, and ELAR.**
- There is no point value assigned for a passing score on the 790 Core Subjects:4-8 exam for those special education teachers of record serving in grade 9-12 assignments.**

	<u>Math</u>	<u>Science</u>	<u>Social Studies</u>	<u>English Language Arts and Reading</u>
Elementary PACT Alignment (EC-5)	715 TX PACT Mathematics: Grades 4-8	716 TX PACT Science: Grades 4-8	718 TX PACT Social Studies: Grades 4-8	717 TX PACT English Language Arts and Reading: Grades 4-8
	EC-5 Placement: 9 pts 6th-8th Placement: 18 pts	EC-5 Placement: 9 pts 6th-8th Placement: 18 pts	EC-5 Placement: 9 pts 6th-8th Placement: 18 pts	EC-5 Placement: 9 pts 6th-8th Placement: 18 pts
Secondary PACT Alignment (6-12)	715 TX PACT Mathematics: Grades 4-8	736 TX PACT Science: Grades 7-12	732 TX PACT Social Studies: Grades 7-12	731 TX PACT English Language Arts and Reading: Grades 7-12
	(6th-8th Placement: 18 pts)	738 TX PACT Life Science: Grades 7-12	733 TX PACT History: Grades 7-12	
	735 TX PACT Mathematics: Grades 7-12	737 TX PACT Physical Science: Grades 6-12		
	(6th-12th Placement: 18 pts)	739 TX PACT: Physics Grades 7-12		
		740 TX PACT Chemistry: Grades 7-12		
	6-12 Placement: 18 pts	6-12 Placement: 18 pts	6-12 Placement: 18 pts	

II. Closely Related Fields

The following list is not exhaustive, and school districts may consider additional fields but must maintain documentation to support the determination.

Note: One foreign language is not closely related to another foreign language.

<u>Math</u>	<u>ELAR</u>	<u>Science</u>	<u>Social Studies and Social Sciences</u>
-------------	-------------	----------------	---

<u>Engineering</u>	<u>English</u>	<u>Life or Physical Science</u>	<u>History</u>
<u>Statistics</u>	<u>Communication</u>	<u>Biology</u>	<u>Economics</u>
<u>Accounting</u>	<u>Speech</u>	<u>Chemistry</u>	<u>Geography</u>
<u>Finance</u>	<u>Journalism</u>	<u>Physics</u>	<u>Political Science, Civics,</u>
<u>Economics</u>	<u>Reading</u>		<u>or Government</u>
			<u>Philosophy</u>
			<u>Sociology</u>
			<u>Psychology</u>

III. Residency Information*

If a teacher at either the elementary or secondary level completes an approved residency program under the supervision of a special education teacher of record in a self-contained setting where the supervising teacher of record is responsible for one or more content areas, each content area will be worth 3 points in the residency row.

IV. Definitions

<u>Teacher of Record</u>	<u>Per 19 TAC §230.1 (24) a teacher serving as teacher of record is “An educator who is employed by a school or district and who teaches in an academic instructional setting or a career and technical instructional setting not less than an average of four hours each day and is responsible for evaluating student achievement and assigning grades.”</u>
<u>CPE</u>	<u>More information regarding the types of acceptable continuing professional education (CPE) activities can be found in 19 TAC §232.15.</u>
<u>Approved Residency Program</u>	<u>A residency completed by the candidate at an EPP approved to offer a teacher residency preparation route per 19 TAC §228.15.</u>

TRD-202500105
 Cristina De La Fuente-Valadez
 Director, Rulemaking
 State Board for Educator Certification
 Filed: January 15, 2025

◆ ◆ ◆

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 **February 25, 2025**. 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 jurisdic-

tion 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 **February 25, 2025**. 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: Angelina Forest Products, LLC; DOCKET NUMBER: 2022-0941-AIR-E; IDENTIFIER: RN110406907; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: lumber mill; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 152131 and PSDTX538, Special Conditions Number 1, Federal Operating Permit Number O4132, General Terms and Conditions and Special

Terms and Conditions Number 6, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rates; PENALTY: \$284,950; ENFORCEMENT COORDINATOR: Desmond Martin, (512) 239-2814; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Aqua Texas, Incorporated; DOCKET NUMBER: 2024-0816-PWS-E; IDENTIFIER: RN102683042; LOCATION: Granbury, Hood County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(iii) and Texas Health and Safety Code, §341.0315(c), by failing to provide two or more pumps that have a total capacity of 2.0 gallons per minute (gpm) per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane; and 30 TAC §290.46(f)(2) and (3)(A)(iv), and (B)(v), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; PENALTY: \$445; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(3) COMPANY: Avalon Point Water Services, LLC dba Medina Highlands; DOCKET NUMBER: 2023-1407-PWS-E; IDENTIFIER: RN104011432; LOCATION: Lake Hills, Bandera County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; PENALTY: \$243; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: City of Mart; DOCKET NUMBER: 2023-0668-MWD-E; IDENTIFIER: RN102079274; LOCATION: Mart, McLennan County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010645001, Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class C license or higher; 30 TAC §305.125(1) and TPDES Permit Number WQ0010645001, Monitoring and Reporting Requirements Number 3.b, by failing to maintain calibration records at the facility and make them readily available for review by a TCEQ representative for a period of three years; 30 TAC §305.125(1), TWC, §26.121(a)(1), and TPDES Permit Number WQ0010645001, Effluent Limitations and Monitoring Requirements Number 2, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0010645001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (9)(A) and TPDES Permit Number WQ0010645001, Monitoring and Reporting Requirements Number 7.c., by failing to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance; 30 TAC §305.125(1) and (11)(C)(ii) and TPDES Permit Number WQ0010645001, Monitoring and Reporting Requirements Number 3.c.ii, by failing to properly maintain records of monitoring activities; 30 TAC §305.125(1) and §319.6 and TPDES Permit Number WQ0010645001, Monitoring and Reporting Requirements Number 2, by failing to assure the quality of all measurements through the use of blanks, standards, duplicates, and spikes; 30 TAC §317.4(a)(8), by failing to test the reduced-pressure backflow assemble annually; and 30 TAC §317.4(b)(4), by failing to dispose of all screenings and

grit in an approved manner; PENALTY: \$75,970; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$60,776; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(5) COMPANY: City of Melvin; DOCKET NUMBER: 2024-0822-PWS-E; IDENTIFIER: RN101217636; LOCATION: Melvin, McCulloch County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(2) and (3)(A)(ii)(III), (iii), and (B)(v), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; PENALTY: \$61; ENFORCEMENT COORDINATOR: Ilia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: Crouch Sand and Gravel, LLC; DOCKET NUMBER: 2024-0505-WQ-E; IDENTIFIER: RN111799607; LOCATION: Cleburne, Johnson County; TYPE OF FACILITY: aggregate production operation (APO) and sand mining facility; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; and 30 TAC §342.25(b), by failing to register the site as an APO no later than the tenth business day before the beginning date of regulated activities; PENALTY: \$12,314; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$4,926; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(7) COMPANY: CSWR-Texas Utility Operating Company, LLC; DOCKET NUMBER: 2024-0161-MLM-E; IDENTIFIER: RN105639009; LOCATION: Sealy, Austin County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(A)(i) and Texas Health and Safety Code, §341.0315(c), by failing to provide a well capacity of 1.5 gallons per minute per connection; 30 TAC §290.46(k), by failing to obtain approval from the Executive Director for the use of interconnections; 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; and 30 TAC §291.93(3)(A) and TWC, §13.139(d), by failing to provide a written planning report for a utility possessing a Certificate of Convenience and Necessity that has reached or exceeded 85% of all or part of its capacity; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Rachel Frey, (512) 239-4330; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: EAGLE MOUNTAIN RV PARK, LLC; DOCKET NUMBER: 2023-0558-PWS-E; IDENTIFIER: RN101522183; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(l)(5), by failing to meet the conditions for an issued exception; 30 TAC §290.43(c)(4), by failing to provide all ground storage tanks with a liquid level indicator; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system; 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher license issued by the executive director (ED); 30 TAC §290.46(f)(2) and (3)(A)(i)(III), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; 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(s)(1), by failing to calibrate the facility's well meter at least once every three years; 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 public water system will use to comply with the monitoring requirements; PENALTY: \$1,614; ENFORCEMENT COORDINATOR: Rachel Frey, (512) 239-4330; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: HAPPY OAKS LLC; DOCKET NUMBER: 2024-0709-PWS-E; IDENTIFIER: RN102680584; LOCATION: Alleyton, Colorado County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: HCA PROPERTIES LLC; DOCKET NUMBER: 2024-0657-PWS-E; IDENTIFIER: RN111081485; LOCATION: Dripping Springs, Hays County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.106(e), by failing to provide the results of nitrate sampling to the Executive Director for the January 1, 2023 - March 31, 2023 and April 1, 2023 - June 30, 2023, monitoring periods; PENALTY: \$900; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: HELOTES READY MIX, LLC; DOCKET NUMBER: 2024-0202-MLM-E; IDENTIFIER: RN111284204; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §101.24 and TWC, §5.702, and Texas Health and Safety Code, §382.062, by failing to pay associated air inspection and late fees for TCEQ Financial Administration Account Numbers 21515086 and 21515101 for Fiscal Year 2024; 30 TAC §116.115(b)(2)(E)(iii) and (c) and Air New Source Permit Registration Number 168142, General Condition Number (2)(D)(J) and Administrative Requirements Number (3)(J), by failing to make records immediately available for review upon request by the TCEQ personnel; and 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(12) COMPANY: Longhorn Excavators, Incorporated; DOCKET NUMBER: 2024-0293-AIR-E; IDENTIFIER: RN111511622; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: excavation business; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent nuisance dust conditions; PENALTY: \$18,750; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(13) COMPANY: Moore Station Water Supply Corporation; DOCKET NUMBER: 2024-0844-PWS-E; IDENTIFIER: RN101231256; LOCATION: Larue, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e) and Texas Health and Safety Code, §341.033(a), by failing to use a water works operator who holds an applicable, valid license issued by the Executive Director; PENALTY: \$250; ENFORCEMENT COORDINATOR:

Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: MULTI-COUNTY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-0784-PWS-E; IDENTIFIER: RN101428746; LOCATION: Gatesville, Coryell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j)(1)(A) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the Executive Director and receive approval prior to making any significant change or addition where the change in existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance; and 30 TAC §290.45(b)(1)(D)(iii) and THSC, §341.0315(c), by failing to provide two service pumps with a minimum combined capacity of 0.6 gallons per minute per connection at each pump station or pressure plane; PENALTY: \$9,400; ENFORCEMENT COORDINATOR: Ashley Lemke, (512) 239-1118; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: NAMINATH INVESTMENT INCORPORATED; DOCKET NUMBER: 2023-0639-PST-E; IDENTIFIER: RN101764439; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 430-6057; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(16) COMPANY: North Collin Special Utility District; DOCKET NUMBER: 2024-0692-PWS-E; IDENTIFIER: RN101458552; LOCATION: Melissa, Collin County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(17) COMPANY: PALO ALTO SILICA SAND, INCORPORATED; DOCKET NUMBER: 2023-0342-WQ-E; IDENTIFIER: RN107251324; LOCATION: Poteet, Atascosa County; TYPE OF FACILITY: aggregate production operation (APO) and construction sand and gravel mining; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater associated with industrial activities; and 30 TAC §342.25(d), by failing to renew the APO registration annually as regulated activities continued; PENALTY: \$43,000; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(18) COMPANY: Rayburn Country Municipal Utility District; DOCKET NUMBER: 2022-1029-PWS-E; IDENTIFIER: RN101213890; LOCATION: Brookeland, Sabine County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant levels of 0.060 milligrams per liter (mg/L) for haloacetic acids and 0.080 mg/L for total trihalomethanes, based on the locational running annual average; PENALTY: \$9,375; ENFORCEMENT COORDINATOR: Nick Lohret-Froio, (512) 239-4495; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: S.L.C. Water Supply Corporation; DOCKET NUMBER: 2023-0481-PWS-E; IDENTIFIER: RN101265908; LO-

CATION: Groesbeck, Limestone County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(C), by failing to seal the space between the casing and drill hole by using enough cement under pressure to completely fill and seal the annular space between the well casing and the drill hole; 30 TAC §290.43(c)(6), by failing to ensure that clearwells and potable water storage tanks, including associated appurtenances such as valves, pipes, and fittings, are thoroughly tight against leakage; 30 TAC §290.43(c)(8), by failing to ensure that the facility's clearwells, ground storage tanks, standpipes, and elevated tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association standards; 30 TAC §290.45(b)(2)(A) and Texas Health and Safety Code, §341.0315(c), by failing to provide a raw water pump capacity of 0.6 gallons per minute per connection with the largest pump out of service; 30 TAC §290.46(f)(2) and (3)(E)(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), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; and 30 TAC §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 public water system will use to comply with the monitoring requirements; PENALTY: \$1,908; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(20) COMPANY: Saint-Gobain Abrasives, Incorporated; DOCKET NUMBER: 2022-1518-AIR-E; IDENTIFIER: RN100213859; LOCATION: Bryan, Brazos County; TYPE OF FACILITY: ceramics plant; RULES VIOLATED: 30 TAC §§122.121, 122.133(2), and 122.241(b) and Texas Health and Safety Code, §382.054 and §382.085(b), by failing to submit a permit renewal application at least six months prior to the expiration of a federal operating permit; PENALTY: \$76,000; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: Samuel Sanchez dba Presidio Stockyards; DOCKET NUMBER: 2024-0358-AGR-E; IDENTIFIER: RN106583404; LOCATION: Presidio, Presidio County; TYPE OF FACILITY: concentrated animal feeding operation; RULES VIOLATED: 30 TAC §§205.4, 305.125(2), and 321.34(b)(1), TWC, §26.121(a)(1), and Agreed Order Docket Number 2020-1587-AGR-E, Ordering Provision Numbers 2.a.i and 2.a.ii, by failing to maintain authorization to discharge manure, sludge, and wastewater associated with operation of a Concentrated Animal Feeding Operation into or adjacent to any water in the state; PENALTY: \$29,250; ENFORCEMENT COORDINATOR: Nancy M. Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: SF2 Cedar Creek Management, LLC dba Shiloh on the Lake; DOCKET NUMBER: 2022-1547-PWS-E; IDENTIFIER: RN101190981; LOCATION: Caney City, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.43(c)(5), by failing to ensure the ground storage tank's inlet and outlet connections are properly located so as to prevent short-circuiting or the stagnation of water; and 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; PENALTY: \$500; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(23) COMPANY: SISA Group LLC dba Billy's Beer and Wine; DOCKET NUMBER: 2023-0130-PST-E; IDENTIFIER: RN102785490; LOCATION: West Tawakoni, Hunt County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,556; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(24) COMPANY: SLOTT CONSTRUCTION COMPANY, INCORPORATED; DOCKET NUMBER: 2024-0857-WQ-E; IDENTIFIER: RN111735296; LOCATION: Huntsville, Walker County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR1565MS Part III, Section D.2., by failing to post a TCEQ site notice; 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1565MS Part III, Section F.4(a), by failing to minimize the off-site vehicle tracking of sediment from the site; 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1565MS Part III, Section F.6(a), by failing to maintain protective measures identified in the stormwater pollution prevention plan in effective operating condition at the site; and 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1565MS Part IV, Section A, by failing to design and install effective erosion and sediment controls to minimize the discharge of pollutants at the site; PENALTY: \$7,001; ENFORCEMENT COORDINATOR: Nancy M. Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(25) COMPANY: Zehraben Momin; DOCKET NUMBER: 2023-0709-MWD-E; IDENTIFIER: RN104707534; LOCATION: Beach City, Chambers County; TYPE OF FACILITY: recreational vehicle park and campsites; RULES VIOLATED: 30 TAC §305.125(1) and (17) and §319.7(d) and Texas Pollutant Discharge Elimination System Permit Number WQ0015398001, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results at intervals specified in the permit; PENALTY: \$12,500; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

TRD-202500095
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 14, 2025



Notice of an Application to Amend a Certificate of Adjudication Application No. 13823

Notices Issued January 14, 2025

Independence Water, L.P. and HW 2421 Land L.P. (Applicants/Permittees) seek authorization to maintain a dam and 21.9-acre-foot reservoir on an unnamed tributary of Marshall Branch, Trinity River Basin for recreational purposes. Applicants also seek to use the bed and banks of the reservoir to convey up to 57.1 acre-feet of groundwater per year from the Paluxy aquifer to maintain the reservoir and for subsequent diversion for agricultural purposes to irrigate 15 acres out of 951.788 acres of land in Tarrant and Denton counties. More information on the application and how to participate in the permitting process is given below.

The application was received on December 6, 2021, and fees were received on January 31, 2022. Additional information was received on January 24, February 16, and December 12, 2022, and April 13, April 17, and May 9, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on March 17, 2022.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions including, but not limited to, use of an alternate source of water and maintaining an accounting plan. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ webpage at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this 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) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the Order and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13823 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at <http://www.tceq.texas.gov/>. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202500109

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 15, 2025



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 178112

APPLICATION. Finley Redimix LLC, 2530 Eldorado Parkway Suite 205E-F, McKinney, Texas 75070-4398 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 178112 to authorize the operation of two concrete batch plants. The facility is proposed to be located using the following directions: From the intersection of FM 1417 and FM 691 (Grayson Drive), go East for 0.5 miles on FM 691 (Grayson Drive). Then turn South on to La Cima Road and continue for 0.1 miles. The site will be on the West side of road near Sherman, Grayson County, Texas 75092. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.64241,33.705352&level=13>. This application was submitted to the TCEQ on November 1, 2024. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on January 8, 2025.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Monday, February 24, 2025, at 6:00 p.m.

Sherman Municipal Ballroom

405 North Rusk Street

Sherman, Texas 75090

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment pe-

riod closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Drive, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Finley Redimix, LLC, 2530 Eldorado Parkway Suite 205E-F, McKinney, Texas 75070-4398, or by calling Mrs. Melissa Fitts, Senior Vice President, Westward Environmental, Inc. at (830) 249-8284.

Notice Issuance Date: January 8, 2025

TRD-202500108

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 15, 2025



Request for Nominations Municipal Solid Waste Management and Resource Recovery Advisory Council

The Texas Commission on Environmental Quality (TCEQ) requests nominations for nine individuals to serve on the Municipal Solid Waste Management and Resource Recovery Advisory Council (Advisory Council) to fill the following positions:

Appointments set to expire on August 31, 2027

An elected official from a county with a population less than 150,000;

A registered waste tire processor;

Appointment set to expire on August 31, 2029

An elected official from a municipality with a population of 750,000 or more;

Appointment set to expire on August 31, 2031

A representative of the general public;

A representative from a solid waste management organization composed primarily of commercial operators;

A person who is experienced in the management and operation of a composting or recycling facility or an educator with knowledge of the design and management of solid waste facilities;

A representative of the financial community;

An elected official from a municipality with a population of 100,000 or more but less than 750,000; and

An elected official from a municipality with a population of 25,000 or more but less than 100,000.

Advisory Council Duties

The Advisory Council duties are to review and evaluate the effect of state policies and programs on municipal solid waste (MSW) management; make recommendations to TCEQ on matters relating to MSW management; recommend legislation to encourage the efficient management of MSW; recommend policies for the use, allocation, or distribution of funds for the Regional Solid Waste Grants Program; and recommend special studies and projects to further the effectiveness of MSW management and recovery for Texas. The Advisory Council was created by the 68th Texas Legislature in 1983 and is composed of 18 members who serve staggered six-year terms. The composition of the Advisory Council is prescribed in the Texas Health and Safety Code, §363.041. Members are expected to attend scheduled hybrid meetings and may be requested to participate in subcommittees. The Advisory Council is required by law to meet at least once every three months. The meetings are held in Austin and may span several hours. The meetings are also broadcast live, allowing members to attend either in person or online via MS Teams webinar. Elected officials may designate an authorized representative as proxy for attending the quarterly meetings.

Application or Nomination Process

Individuals may apply or be nominated by another person for vacant positions. To apply or nominate an individual for an Advisory Council position, please complete and submit the Advisory Council Application and related materials. The application form, list of vacancies, and additional information are available at <https://www.tceq.texas.gov/goto/mswrrac>.

Applicants and nominees will be evaluated based upon the application, materials submitted, letters of reference, and solid waste management experience. Appointments will be made by the TCEQ commissioners at an Agenda Meeting once nominations are reviewed and approved and appointed candidates will be contacted with information about upcoming meetings.

Individuals should apply or nominate another by February 25, 2025 for appointments to start September 2025. After this date, applications for vacant positions can still be submitted to TCEQ but will have a later appointment start date. The website will be updated as appointments are made and positions become available.

The Advisory Council Application, Conflict of Interest Questionnaire, and related materials may be submitted by email to MSWRRAC@tceq.texas.gov, regular mail, or overnight mail.

If submitting by regular mail, please address to:

Waste Permits Division, MC - 126

Attn: MSWRRAC

Texas Commission on Environmental Quality

P.O. Box 13087

Austin, Texas 78711-3087

If sending by express mail or hand-delivery, please deliver to the physical address:

Waste Permits Division, MC- 126

Attn: MSWRRAC

Building F

Texas Commission on Environmental Quality

12100 Park 35 Circle

Austin, Texas 78753

Questions regarding the Advisory Council may be directed to Ms. Anju Chalise at 512-239-1529 or emailed to MSWRRAC@tceq.texas.gov.

TRD-202500074

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 13, 2025



Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: Lobby Activities Report due October 10, 2024

#00070863- Pamela McPeters, 1417 Westmoor Drive, Austin, Texas 78723

#00087374- Jared R. Scruggs, 18710 Winding Atwood Lane, Tomball, Texas 77377

#00069053- Austin Dudley McCarty, 2801 Via Fortuna Suite 650, Austin, Texas 78746

#00056925- Adam Goldman, 316 W 12th St., Suite 200, Austin, Texas 78701

#00050755- Tyler J. Rudd, 4020 Enclave Mesa Circle, Austin, Texas 78731

Deadline: Lobby Activities Report due November 12, 2024

#00065389- Laurie Vanhooose, 2317 Amur Drive, Austin, Texas 78745

#00065427- Jerry Philips, P.O. Box 13506, Capitol Station, Austin, Texas 78711

#00070672- Lorena I. Campos, 1005 Congress Avenue, Suite 152, Austin, Texas 78701

#00065389- Laurie Vanhooose, 2317 Amur Drive, Austin, Texas 78745

#00088451- George C. Manders Jr., 3121 Wyandot Street #304, Denver, Colorado 80211

#00086723- Jeff R. Miller, 1115 San Jacinto Blvd., Suite 110, Austin, Texas 78701

#00087232- Charles E. Semple, P.O. Box 276, Driftwood, Texas 78619

#00051011- Richard Lawson, 900 E. Pecan Street., Suite 300 - Box 217, Pflugerville, Texas 78660

#00056241- Allen E. Blakemore, 1 E Greenway Plz, Suite 225, Houston, Texas 77046

#00087645- Moises Murillo, 700 Milam Street, Suite 1900, Houston, Texas 77002

#00081264- Michael Daniel Geary, P.O. Box 282, Austin, Texas 78767

#00088994- Brandon Mattie, 545 Middlefield Road, Suite 260, Menlo Park, Texas 94025

Deadline: Lobby Activities Report due December 10, 2024

#00082969- Robert Benjamin Stratmann, 502 W. 13th Street, Austin, Texas 78701

#00060695- William Robert Peeler Jr., 502 W. 13th Street, Austin, Texas 78701

#00070108- Elizabeth Nezda, 816 Congress Avenue, 11th Floor, Austin, Texas 78701

#00085126- Robert D. Ries, 919 Congress Avenue #540, Austin, Texas 78701

#00059686- David Doran Parker, 502 W. 13th Street, Austin, Texas 78701

#00086723- Jeff R. Miller, 1115 San Jacinto Blvd., Suite 110, Austin, Texas 78701

#00084637- Ashley L. Myers, 2799 Katy Freeway, Unit 250, Houston, Texas 77007

#00080328- Geoffrey Tahuahua, P.O. Box 1891, Austin, Texas 78767

#00061565- Kristen Hogan, 919 Congress Avenue, Suite 1500, Austin, Texas 78701

#00040174- Camm C. Lary III, 919 Congress Avenue, Suite 1500, Austin, Texas 78701

#00053553- Stacy Schmitt Almgren, 200 W. 6th Street, Suite 1750, Austin, Texas 78701

#00051216- Stephen M. Robinson, 919 Congress Avenue, Suite 1500, Austin, Texas 78701

#00080639- John B. Scott, 316 W. 12th Street, Austin, Texas 78701

#00070475- Colin Parrish, 1122 Colorado Street, Suite 320, Austin, Texas 78701

#00087487- Jennifer Johnson, 16185 Los Gatos Blvd., Suite 205, Los Gatos, CA 95032

#00070672- Lorena I. Campos, 1005 Congress Avenue, Suite 152, Austin, Texas 78701

TRD-202500070

J.R. Johnson

Executive Director

Texas Ethics Commission

Filed: January 10, 2025



General Land Office

Notice of Intention to Conduct Assessment and Restoration Planning for the Pelican Island Release by Martin Operating Partnership L.P., Martin Operating General Partnership LLC, and Martin Midstream Partners L.P. into Galveston Bay on May 15, 2024

Summary:

Under the Oil Pollution Act (OPA), 33 U.S.C. §§ 2701 *et seq.*, federal and state trustees (Trustees) for natural resources are authorized to assess natural resource injuries resulting from the discharge of oil or the substantial threat of discharge, as well as injuries that result from the response to the release. The Trustees are also authorized to develop and implement a plan for the restoration required to compensate for the injuries. This notice of intent (Notice) announces that the Trustees (at this time represented by the National Oceanic and Atmospheric Administration (NOAA), Texas General Land Office (GLO), Texas Parks and Wildlife Department (TPWD), and Texas Commission on Environmental Quality (TCEQ)) will proceed with assessment and planning to restore, replace or acquire the equivalent of natural resources that were

lost or injured as a result of the discharge of oil from the *MMLP 321* barge allision on May 15, 2024. The barge was owned and operated by Martin Operating Partnership L.P.

Contact Information:

Allison Fischer

1700 N. Congress Ave.

P.O. Box 12873

Austin, Texas 78711-2873

Supplementary Information

On May 15, 2024, the barge *MMLP 321* struck the Pelican Island Bridge in Galveston, Texas, resulting in a release of approximately 20,000 gallons of vacuum gas oil into Galveston Bay (the Incident). The Responsible Party (RP) for this Incident has been identified as Martin Operating Partnership L.P.

The Federal Trustees are designated pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 C.F.R. § 300.600). The Texas Trustees are designated by the Governor of Texas pursuant to the NCP (40 C.F.R. § 300.605) and OPA 33 U.S.C. § 2706(b)(3). The following agencies are designated natural resource Trustees and are acting as Trustees for this Incident: Department of the Interior represented by the United States Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA), Texas General Land Office (GLO), Texas Parks and Wildlife Department (TPWD), and Texas Commission on Environmental Quality (TCEQ).

The Trustees initiated the Preassessment Phase of the NRDA, in accordance with 15 C.F.R. §990.40, to determine if they have jurisdiction to pursue restoration under OPA and, if so, whether it is appropriate to do so. During the Preassessment Phase, the Trustees collect and analyze the following: (1) data reasonably expected to be necessary to determine jurisdiction and extent of natural resource to conduct restoration planning, (2) ephemeral data collection, and (3) information needed for assessment activities as part of the Restoration Planning Phase.

Under 15 C.F.R. Part 990 (NRDA regulations), the Trustees must prepare and issue a Notice that demonstrates that the conditions have been met for the Trustees to have jurisdiction over this matter and that restoration of natural resources is feasible and appropriate. Pursuant to 15 C.F.R. § 990.44, this Notice announces that the Trustees, specifically the National Oceanic and Atmospheric Administration (NOAA), Texas General Land Office (GLO), Texas Parks and Wildlife Department (TPWD), and Texas Commission on Environmental Quality (TCEQ), have determined to proceed with restoration planning to fully evaluate, assess, quantify, and develop plans for restoring, replacing, or acquiring the equivalent of injured natural resources and services lost resulting from the Incident. The restoration planning process will include collection of information for evaluating and quantifying injuries and the use of that information to determine the need for and type and scale of restoration actions required to make the public whole.

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41:

(1) The Incident resulted in discharges of oil into and upon navigable waters of the United States, including the Galveston Bay and adjoining shorelines, all of which constitute an "incident" within the meaning of 15 C.F.R. § 990.30.

(2) The Incident was not permitted pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility

subject to the Trans-Alaska Pipeline Authority Act, (43 U.S.C. §§ 1651 *et seq.*).

(3) Natural resources under the trusteeship of the Trustees have been and continue to be injured or threatened as a result of the Incident and associated response and removal efforts. Discharged oil and the associated response activities have resulted in adverse effects on natural resources in and around the coastal waters of Texas and along its adjoining shorelines. The full extent of potential injuries is currently unknown; however, current natural resources and resource services that may have been impacted include, but are not limited to, the following:

- a. Shoreline; hard structures, such as breakwaters; marsh; and other habitat areas;
- b. Water column habitat;
- c. A variety of wildlife;
- d. Various other biota, including benthic communities and fish; and
- e. Lost human-use opportunities associated with various natural resources in the Gulf region, including fishing, swimming, beach-going, and viewing of birds and wildlife.

Accordingly, the Trustees have determined that they have jurisdiction under OPA to pursue assessment and restoration planning.

Determination to Conduct Restoration Planning

1. The Trustees have made the following findings pursuant to 15 C.F.R. § 990.42: Observations and data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources and the services they provide have resulted, or are likely to result, from the Incident; however, the nature and extent of such injuries have not been fully determined at this time. The Trustees have identified several categories of impacted and potentially impacted resources, including, birds, fish, and other fauna, as well as their habitats. Impacted and potentially impacted habitats include but are not limited to estuarine wetlands, mixed sediment/material shorelines, and open water column. The Trustees have also determined that there are impacts or potential impacts to human use of these affected resources. The Trustees have been conducting, and continue to conduct, activities to evaluate injuries and potential injuries to these resources. More information on these resources, including assessment work plans developed jointly by the Trustees and the RP (if any), and information gathered during the preassessment phase, will be made available in the Administrative Record (AR), as discussed below. The full nature and extent of injuries will be determined during the injury assessment conducted as part of the Restoration Planning Phase.

2. Response actions employed for the Incident included containment, collection of oil, onshore removal, and other removal operations. These response actions have not addressed and are not expected to address all injuries resulting from the discharges of oil. Although response actions were initiated soon after identification of the spill, they were unable to prevent injuries to many natural resources. In addition, some of these response actions have caused or are likely to cause injuries to natural resources and the services they provide, including the impairment of sensitive marsh, birds, and impacts to human uses of the resources. While injured natural resources may eventually recover naturally to the conditions, they would have been in had the discharges not occurred, interim losses did occur and will persist until baseline conditions are achieved. In addition, there have been losses and diminution of human uses of the resources resulting from the impacts to the natural resources and from the response actions themselves.

3. Feasible restoration actions exist to address the natural resource injuries and service losses caused by the Incident, including but not lim-

ited to injured habitat and lost human uses. Assessment procedures are available to scale the appropriate amount of restoration required to offset these ecological and human use service losses. During the restoration planning phase, the Trustees will evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft restoration plan for public review and comment. Based upon these determinations, the Trustees intend to proceed with restoration planning for the Incident.

Administrative Record

The Trustees will open an Administrative Record (AR) in compliance with 15 C.F.R. § 990.45 and other authorities. The AR will be publicly available and will include documents considered by the Trustees during the NRDA and restoration planning performed in connection with the Incident. The AR will be augmented with additional information over the course of the NRDA process.

Opportunity to Comment

In accordance with 15 C.F.R. § 990.14(d), the Trustees will provide opportunities for public involvement in the restoration planning for the Incident. The opportunities for public involvement will be addressed in future notices and announcements.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 C.F.R. part 990.

TRD-202500097

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: January 14, 2025



Public Notice and Request for Comments on the Texas Coastal Management Program's Submission of Proposed Program Changes

NOTICE: Pursuant to 15 CFR §923.84, notice is given that the Texas General Land Office (GLO), on behalf of the State of Texas, has submitted a request to the National Oceanic and Atmospheric Administration's Office for Coastal Management (NOAA/OCM) for approval of changes to the federally approved Texas Coastal Management Program (CMP).

Purpose of Notice: The CMP was established by the Coastal Coordination Act, Texas Natural Resources Code, Chapter 33, Subchapter F, as amended. In 1996, NOAA found that the Texas CMP met the criteria for federal approval pursuant to the federal Coastal Zone Management Act (CZMA). Once approved by NOAA, the program became eligible to receive federal funds, and the state was granted authority to review proposed federal actions that may have reasonably foreseeable effect on uses or resources of the Texas Coastal Zone for consistency with the enforceable policies of the Texas CMP. OCM must review and approve changes to a state's CMP before those changes can be incorporated into the CMP and/or used to review proposed federal actions for consistency with the enforceable policies of the Texas CMP.

Description of Proposed Changes: The program change submission covers program changes from December 1, 2022 through July 10, 2023. Additional information and related documents are available on the GLO's website at: <https://www.glo.texas.gov/coastal/protecting-coast/federal-consistency>.

The program change submission consists of four parts; (1) the main body describing the program changes; (2) an attachment consisting of the rule proposal package for 31 TAC Chapters 26-30, which was published in the *Texas Register* on January 27, 2023; (3) an attachment consisting of the changes to Texas's Listed Activities Subject to CZMA Review in redline format; and (4) an attachment consisting of the new rules adopted in 31 TAC Chapter 30, "Procedures for Federal Consistency with Coastal Management Program Goals and Policies."

The submitted program changes involve minor administrative and editorial amendments to the CMP rules in Chapters 26- 29. These non-substantive amendments implement the 2013 program change submission approved by NOAA. This includes the administrative transfer of the CMP rules to 31 TAC Chapters 26-30, as well as necessary updates to internal cross references within the rules due to the transfer. The program changes also include the replacement of the federal consistency procedures in 31 TAC Chapter 30. New Chapter 30 reorganizes, streamlines, and clarifies the rules to adhere to the federal regulations in 15 C.F.R. Part 930 and implements the amendments to the Coastal Coordination Act, as amended by SB 656.

The GLO has evaluated these changes pursuant to 15 C.F.R. Part 923, Subpart H, and concluded that these changes do not make substantial changes to the enforceable policies or authorities of the Texas CMP related to uses subject to management, special management areas, boundaries, authorities, and organization, and coordination, public involvement, and the national interest. No new enforceable policies are proposed to be added to the CMP with the submitted program changes.

Notice is being provided to the general public and affected parties, including local governments, state agencies, and regional offices of relevant federal agencies as required by 15 C.F.R. §923.81(e)(1). A list of persons and organizations notified is available for inspection or can be provided upon request from the contact information below.

COMMENTS

Pursuant to 15 CFR §923.81(e)(3), comments may be submitted through the Program Change Portal website which can be found at: <https://coast.noaa.gov/czmprogramchange> or written comments may be sent to Joelle Gore, NOAA/OCM, 1305 East-West Highway, Silver Spring, MD, 20910 within 21 days of the date of issuance of this notice.

ADDITIONAL INFORMATION:

Additional information and documents related to this Program Change, are available on the NOAA's Program Change Portal at: <https://coast.noaa.gov/czmprogramchange>

More information about the Texas CMP's federal consistency review authority can be found at: <https://www.glo.texas.gov/coastal/protecting-coast/federal-consistency>

If you have questions regarding this notice, please contact Texas GLO Federal Consistency Coordinator, Leslie Koza at: Federal.Consistency@glo.texas.gov.

TRD-202500096

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: January 14, 2025



Texas Health and Human Services Commission

Criminal History Requirements for Child Care Operations - Proposed

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material that is "cumbersome, expensive, or otherwise inexpedient," the charts are not included in the print version of the Texas Register. The charts are available in the online version of the January 24, 2025, issue of the Texas Register.)

26 Texas Administrative Code §745.661 (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?) states that HHSC will review the three charts listed in subsection (a) of the section annually and publish any changes for public comment in the *Texas Register* as an "In Addition" document. Questions or comments about the content of the proposed changes may be directed to Child Care Regulation at (512) 438-3269.

Written comments may be submitted by email to ryan.malsbary@hhs.texas.gov or mailed to:

Ryan Malsbary, Rules Writer

Child Care Regulation, Health and Human Services Commission

P.O. Box 149030

Mail Code E550

Austin, Texas 78751

Any comments must be received within 30 days of publication in the *Texas Register*.

The three charts are titled: (1) Licensed or Certified Child Care Operations: Criminal History Requirements; (2) Foster or Adoptive Placements: Criminal History Requirements; and (3) Registered Child Care Homes and Listed Family Homes: Criminal History Requirements.

Each chart has three parts: (1) an introduction that identifies the types of operations each chart covers, defines certain terms used in the chart, and clarifies certain assumptions; (2) a Table of Contents; and (3) the applicable chart.

Changes made to the charts include:

(1) Adding two new columns and two new footnotes to the Licensed or Certified Child Care Operations chart that address the offenses for those persons identified in the "Licensed Administrator Role;"

(2) Changing the introduction sections of the Licensed or Certified Child Care Operations chart and the and the Foster or Adoptive Homes chart to indicate that frequent/regular visitors in a foster or adoptive home will be subject to the Foster or Adoptive Homes chart;

(3) Clarifying the assumptions in all three charts to provide more information on how similarity between a Texas offense and an offense of another jurisdiction is determined;

(4) Deleting the assumption addressing 42 United States Code §671(a)(20)(A) in the Foster or Adoptive Homes chart and clarifying the information regarding that former assumption in a new footnote;

(5) Clarifying the term "Risk Evaluation if conviction was in the last 10 (or 5) years" in all three charts;

(6) Changing the response for the felony offense to Texas Penal Code §21.07, Public Lewdness, for "Relative Foster or Adoptive Homes or Foster or Adoptive Homes with a Longstanding Relationship with the Child," in the Foster or Adoptive Homes chart;

(7) Changing the response for the felony offense to Texas Penal Code §21.08, Indecent Exposure, for "Relative Foster or Adoptive Homes or Foster or Adoptive Homes with a Longstanding Relationship with the Child," in the Foster or Adoptive Homes chart;

(8) Adding a footnote for the felony offense to Texas Penal Code §22.01, Assault, for "Unrelated Foster or Adoptive Homes," in the Foster or Adoptive Homes chart;

(9) Changing the response for the felony offense to Texas Penal Code §22.012, Indecent Assault, for "Relative Foster or Adoptive Homes or Foster or Adoptive Homes with a Longstanding Relationship with the Child," in the Foster or Adoptive Homes chart;

(10) Adding a footnote for the felony offense to Texas Penal Code §22.02, Aggravated Assault, for "Unrelated Foster or Adoptive Homes," in the Foster or Adoptive Homes chart;

(11) Deleting footnotes for the misdemeanor offense to Texas Penal Code §25.05, Criminal Non-support, in the Foster or Adoptive Homes chart;

(12) Changing the response in all three charts regarding whether presence is allowed pending the outcome of a risk evaluation for offenses related to Texas Penal Code §30.02 and §30.04, Burglary;

(13) Changing the response in the Licensed or Certified Child Care Operations chart for the misdemeanor offense to Texas Penal Code §32.31, Credit Card or Debit Card Abuse, and adding footnotes for the same misdemeanor offense in the Foster or Adoptive Homes chart;

(14) Changing the response for the misdemeanor offense to Texas Penal Code §32.315, Fraudulent Use or Possession of Credit Card or Debit Card Information, in the Licensed or Certified Child Care Operations chart;

(15) Changing the response for the misdemeanor offense to Texas Penal Code §32.51, Fraudulent Use or Possession of Identifying Information, in all three charts;

(16) Adding Texas Penal Code §32.52, Fraudulent, Substandard, or Fictitious Degree, in the Licensed or Certified Child Care Operations chart;

(17) Changing the response for the misdemeanor offense to Texas Penal Code §34.02, Money Laundering, in all three charts;

(18) Changing the response for the misdemeanor offense to Texas Penal Code §38.112, Tampering with Electronic Monitoring Device, in all three charts;

(19) Changing the footnote for the misdemeanor offense to Texas Penal Code §43.02, Prostitution, in the in the Licensed or Certified Child Care Operation chart and the Foster or Adoptive Homes chart;

(20) Changing the response for the misdemeanor offense to Texas Penal Code §43.021, Solicitation of Prostitution, in all three charts;

(21) Changing the response for the misdemeanor offense to Texas Penal Code §43.262, Possession or Promotion of Lewd Visual Material Depicting Child, in all three charts;

(22) Changing the response for the misdemeanor offense to Texas Code of Criminal Procedure §62.102, Failure to Comply with Registration Requirements, in all three charts; and

(23) Making nonsubstantive changes that do not affect the outcome of background checks or the assumptions that apply to the charts.

TRD-202500043

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 8, 2025



Public Notice: Texas State Plan for Medical Assistance - Home and Community-Based Services Adult Mental Health (HCBS-AMH) §1915(i) State Plan Benefit Renewal

The Texas Health and Human Services Commission (HHSC) announces its intent to submit transmittal number (TN) 25-0008 to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The Centers for Medicare and Medicaid Services approved the Home and Community-Based Services Adult Mental Health (HCBS-AMH) §1915(i) State Plan benefit through August 31, 2025. The purpose of this amendment is to request a renewal of the §1915(i) Home and Community-Based Services-Adult Mental Health (HCBS-AMH) program serving adults with a diagnosis of serious mental illness (SMI). The requested effective date for this proposed renewal is September 1, 2025.

The proposed renewal is estimated to result in an annual aggregate expenditure of \$25,762,514 for federal fiscal year (FFY) 2025, consisting of \$14,984,318 in federal funds and \$10,778,196 in state general revenue. For FFY 2026, the estimated annual aggregate expenditure is \$26,981,494, consisting of \$15,555,965 in federal funds and \$11,425,529 in state general revenue. For FFY 2027, the estimated annual aggregate expenditure is \$28,516,813, consisting of \$16,467,484 in federal funds and \$12,049,329 in state general revenue.

The HCBS-AMH program is a State Plan Medicaid program that provides home and community-based services to adults with serious mental illness. The services available in the HCBS AMH program are: Transition Assistance Services (TAS); HCBS Psychosocial Rehabilitation Services; Adaptive Aids; Employment Services; Transportation; Community Psychiatric Supports and Treatment (CPST); Peer Support; Host Home/Companion Care; Supervised Living Services; Assisted Living Services; Supported Home Living; Respite Care; Home Delivered Meals; Minor Home Modifications; Nursing; Substance Use Disorder (SUD) Services; Home and Community-Based Services Adult Mental Health (HCBS-AMH) Recovery Management.

The renewal request proposes to make the following changes in the below sections of the 1915(i) HCBS-AMH template.

1915(i) State Plan HCBS Administration and Operation:

HHSC removed duplicative language from the "Conflict of Interest Standards" section that was already stated. Language HHSC removed: "but may not be HCBS-AMH providers, unless they are the only willing and qualified entity in a geographic area who can be responsible for assessments and person-centered service plan development."

HHSC updated the website used for locating rural county designations with the current website being used.

Number Served:

HHSC updated the projected number of unduplicated participants by increasing the totals projected for all five State Plan benefit years.

Evaluation/Reevaluation of Eligibility:

HHSC updated the "Process for Performing Evaluation/Reevaluation" to align with current policy, by clarifying eligibility assessments are conducted by Local Mental Health Authorities and State Hospitals, while eligibility determinations are made by HHSC staff.

In the "Needs-based HCBS Eligibility Criteria" state assurance, HHSC removed the following duplicative language, "or previously met the needs-based criteria above and who is assessed and found that, but for the provision of HCBS for stabilization and maintenance purposes, would decline to prior levels of need, i.e., subsequent medically necessary services and coordination of care for stabilization and maintenance is needed to prevent decline to previous needs-based functioning."

HHSC added "arrests" to the risk categories in both the Needs-based HCBS Eligibility Criteria state assurance and the Needs-based Institutional and Waiver Criteria state assurance to align with current policy.

HHSC updated Texas Administrative Code (TAC) references from Title 40 to Title 26 as well as the Chapter citation in the needs-based institutional and waiver criteria chart to align with the correct TAC reference citation.

HHSC clarified that the medical necessity and level of care for the STAR+PLUS HCBS (nursing facility criteria) uses the Medical Necessity/Level of Care (MN/LOC) document as the assessment tool.

Home and Community-Based Settings:

HHSC clarified that the settings included in the SPA continue to meet the HCBS settings requirements and removed the Statewide Transition Plan (STP) language from the settings section as the 1915(i) HCBS-AMH State Plan benefit since CMS approved the STP. The Centers for Medicare and Medicaid Services (CMS) provided approval of the state's description of the settings, and the process for assuring that HCBS requirements would be met.

HHSC added the Home and Community-Based Settings (HCBS) requirements language consistent with federal requirements at 42 C.F.R. §441.710 and removed the HCBS requirements language from the following services: Host Home/Companion Care, Supervised Living, Assisted Living, and Supported Home Living. This move is to reduce duplication of settings language.

Person-Centered Planning & Service Delivery:

HHSC revised information in "Supporting the Participant in Development of Person-Centered Service Plan" to clarify existing processes, added "provider agency" to the person-centered planning team, and replaced who conducts the independent needs-based assessments from "HHSC staff or contractors" to "Local Mental Health Authorities and State Hospitals."

HHSC updated "Informed Choice of Providers" to include eligibility evaluation process, and the individual's right to provider choice.

HHSC revised information in "Process for Making Person-Centered Service Plan Subject to the Approval of the Medicaid Agency" to align with current policy and removed repetitive language including providing information about the individuals rights.

HHSC clarified the process around the use of restrictive interventions, and clarified that restraints are only allowed in a behavioral emergency and seclusion is prohibited and must be documented as a critical incident and reported as abuse, neglect, and exploitation (ANE). HHSC also removed additional details about restraints, restrictive interventions, and seclusion in this section since this section is about the process for making person-centered service plan subject to approval of the Medicaid agency.

Maintenance of Person-Centered Service Plan Forms:

HHSC added other "Provider Agency" as an agency that maintains person-centered service plan forms in addition to HHSC as the Medicaid agency and the case manager.

Services:

HHSC revised the "Frequency of Verification" section for all services by explaining the verification process, and its frequency, for provider qualifications. "Frequency of Verification" will now read "Before entering into a provider agreement with the provider agency, HHSC verifies the providers compliance with these qualifications through a credentialing process. Contracted providers are obligated to verify on an ongoing basis that these qualifications are achieved, maintained, and

documented. HHSC will conduct biennial review to verify these requirements continue to be met after the provider and HHSC enter into an agreement."

HHSC revised all services verification of provider qualifications provider types to provide clarity on all HCBS-AMH providers enrolled and contracted with HHSC that provide HCBS- AMH services. Provider type to read "HCBS-AMH provider enrolled and contracted with HHSC to provide HCBS- AMH services, which employs or contracts with a provider."

HHSC clarified the limit language in Transition Assistance Services (TAS) to provide clarity that the limits are lifetime limits and there is a onetime benefit limit for when individual's use TAS in provider owned/operated homes. This clarification aligns with current policy.

HHSC removed the research-based example "Seeking Safety" from the HCBS Psychosocial rehabilitation service description since its related to cognitive behavioral therapy and clarified the HCBS Psychosocial rehabilitation services privacy policies.

HHSC updated the HCBS Psychosocial Rehabilitation Services service description to remove the information about the HCBS American Rescue Plan (ARP) spending plan funding to purchase technology equipment since that language was specific to a prior amendment.

HHSC updated the Adaptive aids service additional needs-based criteria by clarifying "Any item costing over \$500.00 must also include comparable bids from three vendors" to align with current policy.

HHSC added language to the Transportation service description clarifying that the service does not duplicate transportation provided as part of other services or under the State Plan non-emergency medical transportation benefit and services are coordinated by the individual's recovery manager and through their managed care organization, if applicable.

HHSC deleted duplicated language from the Community Psychiatric Support and Treatment (CPST) service description about Cognitive Behavioral Therapy and Dialectical Behavior Therapy. Also, revised provider qualifications to clarify "license" requirements for individual CPST providers.

HHSC added language to Host Home/Companion Care and Supported Home Living service definition to clarify where the service can be delivered. HHSC also removed the following duplicative, "Periodic training is delivered by the HCBS-AMH provider agency, as needed, to ensure service providers are qualified to provide HCBS-AMH services in accordance with state and federal laws and regulations; and to ensure the individual' s safety and security."

HHSC deleted "transition assistance" from the categorically needy limits section to align with current policy in the following services: Host Home/Companion Care, and Supervised Living. Separate payments for TAS are allowable when receiving these services.

HHSC added the individual's provider agency as an entity the recovery manger coordinates with to ensure individuals goals are supported in the HCBS-AMH Recovery Management service description. Deleted duplicated language in the Recovery Management services limits that exist in "Conflicts of Interest Standards" section. HHSC also added that the recovery manger assists the individual in obtaining and maintaining an acceptable form of Medicaid to maintain program eligibility to align with current policy.

Also, for the Recovery Management service, HHSC deleted MMIS language that is described in the "Person-Centered Planning & Service Delivery" section to reduce duplication of language.

Quality Improvement Strategy:

HHSC rearranged the Service Plan Requirement section to align with numbering listed in the Quality Measures section of the Quality Improvement Strategy and to align with other CMS reports (i.e., Request for Evidentiary Information (REI) and Interim Procedural Guidelines (IPG) Final Report).

HHSC revised the requirement description to align with Quality Measures listed in the Quality Improvement Strategy and also to align with other CMS reports (i.e., REI and IPG Final Report).

HHSC added the numerator and the denominator for each performance measure for clarity purposes.

HHSC added the sub-requirements to the Service Plans and Eligibility Requirements to align with CMS reports (i.e., REI).

HHSC renumbered performance measures in Service Plan and Eligibility Requirements sections to align with sub-requirements and to align with other CMS reports (i.e., REI and IPG Final Report).

HHSC moved one performance measure in the Service Plans Requirement (1.4) from one sub-requirement to another which resulted in renumbering performance measures in the Service Plans Requirement (1.4 became 1.a.2, 1.2 became 1.b, and 1.3 became 1.c) based on CMS recommendation in IPG Final Report.

HHSC removed criteria for the Qualified Providers Requirement as criteria is it is duplicative of what is already stated in the state plan.

HHSC revised Service Plans performance measure 1.c. by adding "and providers." The revised measure reads- Number and percent of participants with IRPs which document the individual's choice among and between HCBS-AMH services and providers.

HHSC revised all Qualified Providers performance measures. The revised 3.1 measure reads- Number and percent of HCBS service providers who require licensure and certification requirements prior to furnishing HCBS services.

The revised 3.2 measure reads- Number and percent of HCBS service providers that require (or meet) licensure and certification requirements while furnishing services.

In measure 3.3, HHSC removed the duplicate reference to HHSC in the measure. The revised 3.3 measure reads- Number and percent of HCBS-AMH provider agencies with an active agreement with HHSC.

The revised 3.4 measure reads- Number and percent of required trainings completed by service providers.

HHSC revised HCBS settings requirement 4 description to clearly state the intent of meeting federal requirement by including 42 CFR 441.710(a)(1) and (2).

HHSC revised HCBS settings performance measure 4.1 by removing "appropriate licensure or certification." The revised measure reads- Number and percent of HCBS settings meeting federal requirements.

For requirement 4, HHSC removed additional sampling language in the monitoring responsibilities section and just included, "HHSC collects, aggregates, and analyzes the data."

HHSC revised administrative authority performance measure 5.1 by removing the word "assurances" and adding "requirements." The revised measure reads- Number and percent of aggregated performance measure reports generated and reviewed by the State Medicaid Agency that contain discovery, remediation, and system improvements for ongoing compliance of the requirements.

HHSC removed performance measure 5.3 Administrative Authority- Number and percent of SPA concepts and policies requiring MMIS

programming approved by HHSC prior to implementation by HHSC. MMIS programming not being used to report measure.

HHSC revised performance measure 6.2 Financial Accountability. The revised measure reads- Number and percent of rates which remain consistent with the approved rate methodology throughout the five-year SPA cycle.

HHSC removed performance measure 7.1 for Incidents of Abuse, Neglect, and Exploitation- Number and/or percent of reports related to the abuse, neglect, exploitation, and unexplained deaths of participants where an investigation was completed within the timeframes established by State Law.

HHSC replaced 7.1 measure by adding new performance measures: Incidents of Abuse, Neglect, and Exploitation- 7.1(a) and 7.1(b). New performance measure 7.1(a) reads- Number and percent of abuse, neglect, exploitation (ANE) and unexplained death reports where a provider investigation was initiated and completed by HHSC Provider Investigations (PI) according to required timeframes.

New performance measure 7.1(b) reads- Number and percent of abuse, neglect, exploitation (ANE) and unexplained death reports where a non-provider investigation was initiated and completed according to Department of Family and Protective Services (DFPS) policies and procedures.

HHSC revised performance measure 7.4. (Number and percent of grievances filed by participants that were resolved within 14 calendar days according to approved SPA guidelines) to align with current federal timeframe requirements. The measure now reads as, "Number and percent of grievances filed by participants that were resolved according to federal requirements.

HHSC updated the System Improvement section to align with current policy and procedures by adding provider monthly meetings, and the Quality Management (QM) reviews to the "Methods for Analyzing Data and Prioritizing Need for System Improvement" list.

HHSC clarified, in the "Roles and Responsibilities" section, the role of the Quality Management reviews, and the providers role to implement the corrective action plan requirements.

HHSC updated the System Improvements "Frequency" list to replace quality management meetings with "providers monthly meetings", and onsite and/or desk reviews with biennially "quality management reviews". HHSC also updated the frequency of corrective action plans (CAP) by deleting the language "Areas for improvement will be monitored as per CAP and presented quarterly during Quality management meetings" and adding "Biennially QM Reviews".

HHSC removed duplicated Quality Improvement Strategy pages that were erroneously included during the 2020 renewal.

Methods and Standards for Establishing Payment Rates:

HHSC added cap limit language to clarify the current and ongoing rate methodology for TAS. There were no changes made to the current TAS rates or methods and standards.

HHSC also deleted the last 4.19-B page that included duplicative language that was erroneously added and is on the previous page of the same section of the SPA.

Miscellaneous:

HHSC changed the term "The State" and references to "Texas" to "HHSC" throughout the 1915(i) HCBS-AMH State Plan benefit template, as applicable.

HHSC made non substantive formatting edits throughout the 1915 (i) HCBS-AMH State Plan benefit template that changes the page numeration.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

U.S. Mail

Texas Health and Human Services Commission

Attention: Nicole Hotchkiss, SPA Coordinator, Federal Coordination, Rules and Committees

Health and Human Services Commission

P.O. Box 13247

Mail Code H-310

Austin, Texas 78711

Overnight Mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Nicole Hotchkiss, SPA Coordinator, Federal Coordination, Rules and Committees

John H. Winters Building

Mail Code H-310

701 W. 51st St.

Austin, Texas 78751

Telephone

(512) 438-5035

Fax

Attention: Nicole Hotchkiss at (512) 323-1905

Email

Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us

TRD-202500104

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 15, 2025

◆ ◆ ◆

Texas Department of Insurance

Company Licensing

Application for Agents National Title Insurance Company, a foreign title company, to change its name to Essent Title Insurance, Inc. The home office is in Columbia, Missouri.

Application for American Mercury Lloyds Insurance Company, a domestic fire and/or casualty company, to change its name to Mercury Insurance Company of Texas. The home office is in Austin, Texas.

Application for Central Mutual Insurance Company, a foreign fire and/or casualty company, to change its name to Central Insurance Company. The home office is in Van Wert, Ohio.

Application to do business in the state of Texas for Sidecar Health Insurance Company, a foreign life, accident and/or health company. The home office is in Columbus, Ohio.

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 Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202500044

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: January 8, 2025

◆ ◆ ◆
Panhandle Regional Planning Commission

Legal Notice

Under the Workforce Innovation and Opportunity Act (WIOA) §108 (20 Code of Federal Regulations §679.500-580), the Panhandle Workforce Development Board is required to modify its comprehensive four-year Board plan that identifies and describes policies and procedures as well as local activities, and submit it to the State. The Panhandle Regional Planning Commission (PRPC), and the Panhandle Workforce Development Board (PWDB) will submit, to the Texas Workforce Commission (TWC), the Panhandle Workforce Development Board Plan for Program Years 2025-2028, on March 21, 2025.

Interested parties may examine the proposed modification of the Board Plan on the PRPC website at: <http://theprpc.org/programs/workforcedevelopment/default.html>. Copies may also be requested by email using the contact information listed below.

PRPC will accept written public comments on the Board Plan submitted by February 24, 2025. Written comments may be sent to Leslie Hardin, Workforce Development Program Manager, by email: lhardin@theprpc.org, or by mail: Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105-9257.

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities

Relay Texas: 711

TRD-202500092

Leslie Hardin

Workforce Development Program Manager

Panhandle Regional Planning Commission

Filed: January 13, 2025

◆ ◆ ◆
Texas Department of Transportation

Public Hearing Notice - Correction Statewide Transportation Improvement Program January 2025 Out-of-Cycle Revision

The Texas Department of Transportation has determined that the proposed January 2025 Out-of-Cycle Revision is unnecessary. The public hearing scheduled for Tuesday, February 4, 2025, at 10:00 a.m. has been cancelled.

TRD-202500045

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: January 9, 2025

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 50 (2025) is cited as follows: 50 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 "50 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 50 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: <https://www.sos.texas.gov>. 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
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 §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

SALES AND CUSTOMER SUPPORT

Sales - To purchase subscriptions or back issues, you may contact LexisNexis Sales at 1-800-223-1940 from 7 a.m. to 7 p.m., Central Time, Monday through Friday. Subscription cost is \$991 annually for first-class mail delivery and \$669 annually for second-class mail delivery.

Customer Support - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7 a.m. to 7 p.m., Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: customer.support@lexisnexis.com

Website: www.lexisnexis.com/printedsc



LexisNexis