

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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 7. HOMELESSNESS PROGRAMS SUBCHAPTER D. ENDING HOMELESSNESS FUND

10 TAC §§7.61 - 7.65

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the *Texas Register* (49 TexReg 8520) on October 25, 2024, the repeal of 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund. The repeals will not be republished. The purpose of the repeal is to eliminate an outdated rule, while adopting a new updated rule under separate action.

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

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

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making changes to an existing activity, administration of the Department's Ending Homelessness Fund.

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

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

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

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

6. The action will repeal an existing regulation but is associated with a simultaneous re-adoption making changes to an existing activity, the administration of the Department's Ending Homelessness Fund.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed chapter would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed chapter.

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

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment between October 25, 2024, to November 29, 2024. No comment was received.

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

Except as described herein the repealed chapter affects no other code, article, or statute.

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

Filed with the Office of the Secretary of State on January 16, 2025.

TRD-202500146

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: February 5, 2025
Proposal publication date: October 25, 2024
For further information, please call: (512) 475-3959



10 TAC §§7.61 - 7.64

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the *Texas Register* (49 TexReg 8521) on October 25, 2024, the new Subchapter D, Ending Homelessness Fund. The rule will not be republished. The purpose of the new section is to comply with the requirements of Tex. Transp. Code §502.415 while increasing flexibility for the use of the Ending Homelessness Fund.

Tex. Gov't Code §2001.0045(b) does not apply to the adoption of the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

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

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

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the adopted new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to administration of the Department's Single Family Programs.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new rule does not require additional future legislative appropriations.
4. The new rule will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not expand or repeal an existing regulation.
7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this new rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.111.

1. The Department has evaluated this new rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that because the new rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

The Department has evaluated the new rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that participation in the Department's Single Family and Homeless Programs is at the discretion of the local government or other eligible subrecipients, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the rule will be a more germane rule that better aligns administration to federal and state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

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

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment between October 25, 2024, to November 29, 2024. No comment was received.

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

Except as described herein the new rule affects no other code, article, or statute.

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

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959



TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 303. GENERAL PROVISIONS SUBCHAPTER F. LICENSING PERSONS WITH CRIMINAL BACKGROUNDS

16 TAC §303.201

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 303, Subchapter F, Licensing Persons with Criminal Background, §303.201. General Authority, concerning factors that relate to the person's present fitness to perform the duties and responsibilities. Amended Chapter 303, Subchapter F, §303.201 is adopted with non-substantive changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8009) and will be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to align the Texas Rules of Racing with legislative changes made to the Texas Racing Act during the 88th Legislative Session.

PUBLIC COMMENTS

The 30-day comment period ended on November 4, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8009). During this period, the Agency received no comments regarding this proposed rule change.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the February 14, 2024, meeting.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2025.001 (a-1).

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2025.001 (a-1).

§303.201. *General Authority.*

(a) In accordance with state law, the commission may revoke, suspend, or deny a license because of the person's conviction of a felony or misdemeanor if the offense directly relates to the person's present fitness to perform the duties and responsibilities associated with the license.

(b) In determining whether an offense directly relates to a person's present fitness to perform the duties and responsibilities associated with the license, the commission shall consider the relationship between the offense and the occupational license applied for and the following factors:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence presented by the person of the person's present fitness, including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; or

(C) any other persons in contact with the convicted person.

(c) The executive director shall develop and publish guidelines relating to the administration of the occupational licensing program.

(d) On learning of the felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision of a licensee, the executive director or designee shall determine whether a license may be subject to suspension or revocation.

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 15, 2025.

TRD-202500099

Amy F. Cook

Executive Director

Texas Racing Commission

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Proposal publication date: October 4, 2024

For further information, please call: (512) 833-6699



16 TAC §303.202

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 303, Subchapter F, Licensing Persons with Criminal Background, §303.202 Guidelines, concerning the occupational licensing guidelines.

Amended Chapter 303, Subchapter F, §303.202 is adopted without changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8011) and will not be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of these rule amendment is to clarify the responsibilities of the executive director and align the administration of the occupational licensing program with current state law. The proposed rule changes will allow the agency to conform with the provisions of Texas Occupations Code § 2025.251-262.

PUBLIC COMMENTS

The 30-day comment period ended on November 4, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8011). During this period, the Agency received no comments regarding this proposed rule change.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the February 14, 2024, meeting.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2025.251-262.

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2025.251-262.

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 15, 2025.

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Amy F. Cook

Executive Director

Texas Racing Commission

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For further information, please call: (512) 833-6699



CHAPTER 309. RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER B. OPERATIONS OF RACETRACKS
DIVISION 3. OPERATIONS
16 TAC §309.168

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 309, Subchapter B, Operations, §309.168. Hazardous Weather. Amended Chapter 309, Subchapter B, §309.168 is adopted without changes to the proposed text as published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7566) and will not be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to add additional considerations to the assessment of safe weather conditions for horse racing.

PUBLIC COMMENTS

The 30-day comment period ended on October 20, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7566). During this period, the Agency received no comments regarding this proposed rule change.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the August 21, 2024, meeting and the Rules Committee meeting, held on August 8, 2024.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2026.

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2026.

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

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Amy F. Cook

Executive Director

Texas Racing Commission

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For further information, please call: (512) 833-6699



CHAPTER 311. OTHER LICENSES
SUBCHAPTER A. LICENSING PROVISIONS
DIVISION 1. OCCUPATIONAL LICENSES
16 TAC §311.4

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 311, Subchapter A, Di-

vision 1, Occupational Licenses, §311.4. Occupational License Restrictions. Amended Chapter 311, Subchapter A, §311.4 is adopted without changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8012) and will not be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of these rule amendment is to align the Texas Rules of Racing with changes in the Texas Racing Act made during the 88th Legislative Session, specifically, Texas Occupations Code § 2025.001(a-1).

PUBLIC COMMENTS

The 30-day comment period ended on November 4, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8012). During this period, the Agency received no comments regarding this proposed rule change.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the February 14, 2024, meeting.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2025.001 (a-1).

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2025.001 (a-1).

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 15, 2025.

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Amy F. Cook

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Texas Racing Commission

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For further information, please call: (512) 833-6699



CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

SUBCHAPTER C. CLAIMING RACES

DIVISION 3. ALLOWANCES AND PENALTIES

16 TAC §313.303

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 313, Subchapter C, Claiming Races, §313.303. Effective Time of Claim. Amended Chapter 313, Subchapter C, §313.303 is adopted with changes to the proposed text as published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7567) and will be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to specify events which may void a change in horse ownership following a claiming race to account for the health of the horse after the race if there was injury to the horse during the race.

PUBLIC COMMENTS

The 30-day comment period ended on October 20, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7567). Discussion among Commission staff regarding the timing of change of ownership subject to voiding events led to changes to the proposed rule that leave the time of ownership change as it currently is but adds voiding language.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the August 21, 2024, meeting and the Rules Committee meeting, held on August 8, 2024.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2023.001

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2023.001.

§313.303. *Effective Time of Claim.*

(a) A person who has a valid claim to a horse becomes the owner of the horse when the horse steps on to the racetrack for the race. A claim shall be voided and ownership of the horse retained by the original owner if:

(1) the horse dies on the racetrack or is euthanized by a Commission Veterinarian before leaving the racetrack, either on the race surface or in the equine ambulance.

(2) the horse has a musculoskeletal injury that requires loading in the equine ambulance for safe removal from the track. This claim is only voided after proper Veterinary examination of injury and the on duty Commission Veterinarian is contacted and approves of euthanasia. Horses euthanized without Veterinarian examination and notification to the attending Commission Veterinarian will not be entitled to a voided claim.

(b) Horses vanned off the track for medical conditions (including but not limited to EIPH, Myositis, heat stress, extreme exhaustion) will not be treated as a voided claim.

(c) On the day claimed, a claimed horse runs in the interest of and for the account of the owner from whom the horse was claimed.

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 15, 2025.

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Amy F. Cook

Executive Director

Texas Racing Commission

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For further information, please call: (512) 833-6699



CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

SUBCHAPTER B. TREATMENT OF HORSES

16 TAC §319.111

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 319, Subchapter B, Treatment of Horses, §319.111. Bleeders and Furosemide Program. Amended Chapter 319, Subchapter B, §319.111 is adopted without changes to the proposed text as published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7568) and will not be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to create an easier pathway for administration of Furosemide on racehorses returning to Texas from other racing jurisdictions and clarifying the reporting of "bleeders" identified by all veterinarians versus Commission veterinarians.

PUBLIC COMMENTS

The 30-day comment period ended on October 20, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7568). No comments were received during the comment period.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the August 21, 2024, meeting and the Rules Committee meeting, held on August 8, 2024.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §2023.001

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2023.001.

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 15, 2025.

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Amy F. Cook

Executive Director

Texas Racing Commission

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For further information, please call: (512) 833-6699



SUBCHAPTER D. DRUG TESTING

DIVISION 3. PROVISIONS FOR HORSES

16 TAC §319.362

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 319, Subchapter D, Division 3, Provisions for Horses, §319.362, Split Specimen. Amended Chapter 319, Subchapter D, §319.362 is adopted with changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8013) and will be republished.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to change the procedures for drug testing of horses to enable the storage of split samples at a laboratory along with testing both samples at that laboratory.

PUBLIC COMMENTS

The 30-day comment period ended on November 4, 2024. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8013). During this period, the Agency received one comment regarding two issues within the proposed rule.

The first issue concerned language regarding where a split sample may be sent. The language of that section now retains language of the rule before the proposed change, but also allows that a split sample may be tested by a different technician at the same lab.

The second issue concerned the portion of the rule regarding representatives of an owner or trainer being present for the shipping of a split sample. This suggestion was the previous practice when split samples were kept at tracks until they were sent to a lab. That practice is no longer possible due to the change in testing labs and the lack of safe, reliable storage at the racetracks.

COMMISSION ACTION

At its meeting on December 11, 2024, the Commission adopted the proposed rule as recommended by the Commission at the August 21, 2024, meeting and the Rules Committee meeting, held on August 8, 2024.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Com-

mission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The rule amendment is adopted under Texas Occupations Code §§2034.002; 2034.005.

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §§2034.002; 2034.005.

§319.362. *Split Specimen.*

(a) Before sending a specimen from a horse to a testing laboratory, the commission veterinarian shall determine whether the specimen is of sufficient quantity to be split. If there is sufficient quantity, the commission veterinarian or the commission veterinarian's designee shall divide the specimen into two parts, and both parts will be shipped to the testing laboratory for testing and storage for future testing, if applicable. If the specimen is of insufficient quantity to be split, the commission veterinarian may require the horse to be detained until an adequate amount of urine can be obtained. If the commission veterinarian ultimately determines the quantity of the specimen obtained is insufficient to be split, the commission veterinarian shall certify that fact in writing and submit the entire specimen to the laboratory for testing.

(b) An owner or trainer of a horse which has received a positive result on a drug test may request, in writing, that the split of the specimen for the primary sample with the positive result, be submitted for testing by a different technician at a Commission approved testing laboratory of the owner or trainer's choice if available. The owner or trainer must notify the executive director of the request not later than 48 hours after notice of the positive result. Failure to request the split within the prescribed time period will be deemed a waiver of the right to the split specimen.

(c) If the test on the split specimen confirms the findings of the original laboratory, it is a prima facie violation of the applicable provisions of the chapter.

(d) If the test on the split specimen portion does not substantially confirm the findings of the original laboratory, the stewards may not take disciplinary action regarding the original test results.

(e) If an act of God, power failure, accident, labor strike, or any other event, beyond the control of the Commission, prevents the split from being tested, the findings of the original laboratory are prima facie evidence of the condition of the horse at the time of the race.

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

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Amy F. Cook

Executive Director

Texas Racing Commission

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For further information, please call: (512) 833-6699



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 364. PRIMARY HEALTH CARE SERVICES PROGRAM

SUBCHAPTER D. CLEARINGHOUSE FOR PRIMARY CARE PROVIDERS SEEKING COLLABORATIVE PRACTICE

26 TAC §§364.51, 364.53, 364.55, 364.57

The Texas Health and Human Services Commission (HHSC) adopts the repeal of Subchapter D, concerning Clearinghouse for Primary Care Providers Seeking Collaborative Practice consisting of §364.51, concerning Purpose and Authority; §364.53, concerning Definitions; §364.55, concerning Provider Registration; and §364.57, concerning Duties of the Department. The repeal of §§364.51, 364.53, 364.55, and 364.57 is adopted without changes to the proposed text as published in the November 1, 2024, issue of the *Texas Register* (49 TexReg 8693). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The purpose of the adoption is to remove rules which are no longer necessary and to increase clarity in the Texas Administrative Code (TAC). The rules applied to a Department of State Health Services (DSHS) program regarding a clearinghouse for primary care providers seeking collaborative practice. Texas Health and Safety Code §105.007, which covered the clearinghouse, was repealed by Senate Bill 970, 87th Legislature, Regular Session, 2021.

COMMENTS

The 31-day comment period ended December 2, 2024.

During this period, HHSC did not receive any comments regarding the proposed rule repeals.

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Senate Bill 970 (87th Legislature, Regular Session, 2021), which repealed Texas Health and Safety Code §105.007, the corresponding statutory authority for 26 TAC, Part 1, Chapter 364, Subchapter D.

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

Filed with the Office of the Secretary of State on January 17, 2025.

TRD-202500151

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CHAPTER 745. LICENSING

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§745.11, 745.8906, 745.8911, 745.8913, 745.8914, 745.8925, 745.8933, 745.8965, 745.8967, 745.8976, 745.9028, 745.9029, and 745.9030; the repeal of §§745.8901, 745.8903, 745.8905, 745.8907, 745.8908, 745.8909, 745.8923, 745.9025, 745.9026, and 745.9027; and new §§745.8905, 745.8907, 745.9023, 745.9024, 745.9025, 745.9026, and 745.9027.

Amendments to §§745.11, 745.8906, 745.8911, 745.8913, 745.8914, 745.8925, 745.8933, 745.8965, 745.8967, 745.8976, 745.9028, 745.9029, and 745.9030; and new §§745.8905, 745.8907, 745.9023, 745.9024, 745.9025, 745.9026, and 745.9027 are adopted with changes to the proposed text as published in the in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7279). These rules will be republished.

The repeals of §§745.8901, 745.8903, 745.8905, 745.8907, 745.8908, 745.8909, 745.8923, 745.9025, 745.9026, and 745.9027 are adopted without changes to the proposed text as published in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7279). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments, repeals, and new sections update and clarify rules pertaining to the licensure of child-care administrators for general residential operations and child-placing agencies.

Some of the adopted changes are necessary to implement Senate Bill (S.B.) 422, 88th Legislature, Regular Session, 2023, and to be consistent with the recent changes made by HHSC to §351.3 and §351.6 in Texas Administrative Code, Title 1, Part 15. The changes update the administrator's licensing rules related to a military member, spouse, or veteran, including (1) updating the expedited application process for a military member, spouse, or veteran who applies for an administrator's license or to act as an administrator without a license, by clarifying that Child Care Regulation (CCR) will process a complete application within 30 days after CCR receives the application; (2) adding that a military member licensed in good standing by another state with substantially equivalent requirements to Texas may apply to act as an administrator without obtaining an administrator's license under certain circumstances, which is already allowed for a military spouse; (3) clarifying that a military spouse approved to act as an administrator without a license may continue to do so for three years from the date of the approval even if there is a divorce or similar event that changes the marital status of the military spouse; and (4) clarifying that an approval of a military member or spouse to act as an administrator without a license may not be renewed.

Other adopted changes not related to the statutory changes include (1) clarifying when a child-care administrator must have a Child-Care Administrator's License (CCAL) or a Child-Placing Agency Administrator's License (CPAAL), including clarifying and consolidating the exceptions and the deletion of an exception for a CPAAL; (2) clarifying that CCR will waive examination, experience, and education requirements for an applicant with a license in good standing by another state that has licensing requirements substantially equivalent to Texas, including an applicant who is a military member, spouse, or veteran, if the applicant meets the background check requirements and is otherwise eligible to apply for an administrator's license; (3) updating the

application requirements, including those for a military member, spouse, or veteran, to be consistent with current application and policy requirements; (4) clarifying substitute methods a military member, spouse, or veteran may use to demonstrate competency in the examination, experience, or education requirements for an administrator's license; (5) waiving the replacement fee for a military member, spouse, or veteran to obtain a copy of a lost or destroyed administrator's license or approval letter to act as an administrator without an administrator's license; (6) clarifying that CCR Administrator Enforcement may revoke a military member's or spouse's ability to act as an administrator without a license if the military member or spouse fails to comply with relevant statutes, rules, and minimum standards or if the military member or spouse is no longer licensed in good standing by another state; and (7) consolidating rules, updating citations and titles, and improving the readability and understanding of the rules.

COMMENTS

The 31-day comment period ended October 14, 2024. During this period, HHSC received three comments from Rising Star, a general residential operation.

Comment: Regarding §745.8907 and §745.8911, the commenter asked if an emergency shelter in a county with a population of 40,000 or less can operate without a licensed child-care administrator.

Response: The commenter is correct. The language in §745.8907(a)(1) reflects Texas Human Resources Code (HRC) §43.003(b), which states that a person may serve as the administrator for an emergency shelter in a county with a population of less than 40,000 if the governing body of the shelter takes certain steps that are listed in that statute and in §745.8911. One source of the commenter's confusion may be the misuse of the words "an exempt" in §745.8907(a)(1), which makes the rule read as if the shelter itself must be exempt from regulation. Accordingly, and since rule language must be consistent with statutory language, CCR is deleting "an exempt" from §745.8907(a)(1).

Comment: Regarding §745.8915(a)(4), the commenter stated that while the rule requires a master's or bachelor's degree for a person to qualify for a child-care administrator's license, the rule does not explain the types of institutions that are acceptable. This becomes confusing if someone has a degree from a religious education institution.

Response: §745.8915 was not proposed for change; therefore, HHSC cannot make a change to this rule because the comment is outside the scope of the rule proposal.

Comment: Regarding §745.8915(a)(4), the commenter stated that a person should be able to qualify for a child-care administrator's license on in-depth experience alone without an educational component, for example five or more years as a Program Director or Management of an operation.

Response: §745.8915 was not proposed for change; therefore, HHSC cannot make a change to this rule because the comment is outside the scope of the rule proposal. Note: the current requirements to qualify for a child-care administrator's license are mandated by HRC §43.004(a)(5). A rule allowing other optional methods to qualify for a child-care administrator's license could not be made unless there was a corresponding statutory change.

HHSC amended the format of the rule titles from the question format to a brief declaratory description of the rule and updated

the titles in the corresponding references to the rules. In addition, HHSC made minor editorial changes to update a citation at §745.8905(2)(A); make subsections consistent at Figure: 26 TAC §745.8906(3); correct punctuation at §§745.8933(e), 745.9025(1)(B), and 745.9028(d)(2)(B); and update the title for Child Care Regulation Administrator Enforcement at §745.9028(c)(2) and (d) and §745.9030(h).

SUBCHAPTER A. PRECEDENCE AND DEFINITIONS

DIVISION 1. DEFINITIONS FOR THE LANGUAGE USED IN THIS CHAPTER

26 TAC §745.11

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, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.11. *General Definitions.*

The following words have the following meanings when used in this chapter:

(1) I, my, you, and your--An applicant or permit holder, unless otherwise stated or the context clearly indicates otherwise.

(2) We, us, our, Licensing, and Child Care Regulation--The Child Care Regulation department of the Texas Health and Human Services Commission.

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

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SUBCHAPTER N. ADMINISTRATOR'S LICENSING

DIVISION 1. OVERVIEW OF ADMINISTRATOR'S LICENSING

26 TAC §§745.8901, 745.8903, 745.8905, 745.8907 - 745.8909, 745.8923

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

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26 TAC §§745.8905 - 745.8907, 745.8911, 745.8913, 745.8914, 745.8925

STATUTORY AUTHORITY

The amendments and new are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.8905. *Definitions for Subchapter N.*

These terms have the following meanings:

- (1) Another state--Includes:
 - (A) Any state in the United States other than the State of Texas;
 - (B) Any territory of the United States; or
 - (C) The District of Columbia.
- (2) Child-care administrator--A person who:
 - (A) Supervises and exercises direct control over a general residential operation, including a residential treatment center, as described in Figure: 26 TAC §745.37(2) of this chapter (relating to What specific types of operations are subject to regulation under this chapter and corresponding minimum standards?); and
 - (B) Is responsible for the operation's program and personnel, regardless of whether the person has an ownership interest in the operation or shares duties with anyone.
- (3) Child-placing agency administrator--A person who:
 - (A) Supervises and exercises direct control over a child-placing agency, as described in Figure: 26 TAC §745.37(2) of this chapter; and

(B) Is responsible for the agency's program and personnel, regardless of whether the person has an ownership interest in the agency or shares duties with anyone.

(4) Licensed administrator--A licensed child-care administrator or a licensed child-placing agency administrator.

(5) Licensed in good standing by another state--Requires the license issued by another state to be:

(A) Valid, active, and current (has not expired); and

(B) Not subject to a disciplinary action or corrective action.

§745.8906. *Types of Administrator's Licenses.*

Child Care Regulation may issue an administrator's license to an applicant as described in the following chart.

Figure: 26 TAC §745.8906

§745.8907. *Exceptions to Full Administrator's License Requirement.*

(a) A person must have a full Child-Care Administrator's License (CCAL) to serve as a child-care administrator for a general residential operation, including a residential treatment center, except:

(1) When serving as a child-care administrator for a general residential operation that only provides emergency care services according to §745.8911 of this division (relating to Exception for a General Residential Operation that Only Provides Emergency Care Services); or

(2) When serving as a child-care administrator under a provisional CCAL according to:

(A) §745.8913(c) of this division (relating to Qualifying for an Administrator's License Through a License from Another State); or

(B) §745.8925 of this division (relating to Qualifying for a Provisional Child-Care Administrator's License Without Meeting Management and Supervisory Experience) at a general residential operation that meets the requirements of §748.532 of this title (relating to When can a child-care administrator with a provisional license serve as the administrator for a general residential operation?).

(b) A person must have a full Child-Placing Agency Administrator's License to serve as a child-placing agency administrator.

§745.8911. *Exception for a General Residential Operation that Only Provides Emergency Care Services.*

(a) A person may serve as a child care administrator without having a Child-Care Administrator's License (CCAL) if:

(1) The person would be serving as a child care administrator for a general residential operation that only provides emergency care services; and

(2) Child Care Regulation exempts the general residential operation from needing a licensed child-care administrator after receiving the information required under subsection (b) of this section.

(b) To qualify for the exemption described in subsection (a) of this section, the governing body or designee of the emergency shelter must send to the Associate Commissioner for Child Care Regulation a letter that includes the following:

(1) The name of the county with a population of less than 40,000 where the operation is located;

(2) The date that the operation's governing body adopted a resolution certifying that the operation made a reasonable attempt to hire a licensed child-care administrator but was unable to do so;

(3) A statement that the governing body adopted the resolution by a majority vote;

(4) The name of the unlicensed administrator hired; and

(5) A statement of the administrator's qualifications, including any areas where the person's qualifications do not meet the requirements for a CCAL.

§745.8913. *Qualifying for an Administrator's License Through a License from Another State.*

(a) Child Care Regulation (CCR) will waive the examination, experience, and education prerequisites for a full administrator's license under §745.8915 of this division (relating to How do I qualify for a full Child-Care Administrator's License (CCAL)?), §745.8917 of this division (relating to How do I qualify for a full Child-Placing Agency Administrator's License (CPAAL)?), or both, if the applicant:

(1) Is licensed in good standing by another state; and

(2) Either:

(A) CCR determines the other state's license requirements are substantially equivalent to the requirements for a license according to §745.8914 of this division (relating to Determining Whether Another State's Licensing Requirements Are Substantially Equivalent to the Requirements in This Subchapter); or

(B) There is a reciprocity agreement between Texas and the other state.

(b) To be eligible to obtain a license under subsection (a) of this section, the applicant must be eligible to:

(1) Receive and continue to maintain an administrator's license, as specified in §745.775(c) of this chapter (relating to How may a criminal conviction or a child abuse or neglect finding affect my ability to receive or maintain an administrator's license?); and

(2) Apply for an administrator's license under §745.9037(c) of this subchapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?).

(c) CCR may issue a provisional license to an applicant licensed by another state if the applicant meets the requirements in Human Resources Code §43.0081(a)(1).

§745.8914. *Determining Whether Another State's Licensing Requirements Are Substantially Equivalent to the Requirements in This Subchapter.*

Child Care Regulation will review and evaluate the following criteria when determining whether another state's licensing requirements are substantially equivalent to the requirements for an administrator's license under this subchapter and Chapter 43 of the Texas Human Resources Code:

(1) Whether the other state requires an applicant to pass an examination that demonstrates competence in the field of child care administration or placing children in residential settings, as appropriate, to obtain the license;

(2) Whether the other state requires an applicant to meet the full-time experience qualifications, as described in this division, to obtain the license;

(3) Whether the other state requires an applicant to meet the education qualifications, as described in this division, to obtain the license; and

(4) The other state's license requirements, including the scope of work authorized to be performed under the license issued by

the other state. For example, the license in the other state must require an administrator to meet responsibilities equivalent to those that an administrator of an applicable residential child-care operation in Texas must meet.

§745.8925. Qualifying for a Provisional Child-Care Administrator's License Without Meeting Management and Supervisory Experience.

If an applicant does not meet the minimum management or supervisory experience in §745.8919(a) of this division (relating to What qualifies as one year of experience in management or supervision of personnel and programs required for a full Child-Care Administrator's License (CCAL) or full Child-Placing Agency Administrator's License (CPAAL)?), the applicant will qualify for, and Child Care Regulation (CCR) may issue, a provisional CCAL if:

(1) The applicant meets the requirements in §745.8915(a)(1), (2), and (4) of this division (relating to How do I qualify for a full Child-Care Administrator's License (CCAL)?);

(2) The applicant has six months of full-time experience in management or supervision of personnel as specified in §745.8927 of this division (relating to What qualifies as six months of experience in management or supervision of personnel required for a provisional Child-Care Administrator's License (CCAL)?); and

(3) CCR has not denied the applicant a full CCAL for an issue identified in §745.9037(a) of this subchapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?) while the applicant had a provisional CCAL.

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

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DIVISION 2. SUBMITTING APPLICATION MATERIALS

26 TAC §745.8933

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.8933. Application Requirements for an Administrator's License.

(a) A complete application to become a licensed administrator must include:

(1) A completed Application for a Child Care Administrator License or a Child-Placing Agency Administrator License (Form 3015);

(2) An official, stamped transcript or certification on letterhead from the appropriate educational institutions to substantiate educational qualifications;

(3) Three completed references, using Administrator Licensing - Reference for an Applicant (Form 3016), including:

(A) Two professional references who can attest to work experience and competence as a child-care administrator or child-placing agency administrator, as applicable; and

(B) An employer or supervisor reference that documents one year of management or supervisory experience as described in §745.8919 of this subchapter (relating to What qualifies as one year of experience in management or supervision of personnel and programs required to qualify for a full Child-Care Administrator's License (CCAL) or a full Child-Placing Agency Administrator's License (CPAAL)?);

(4) A notarized Affidavit for Applicants for Employment with a Licensed Operation or Registered Child-Care Home (Form 2985) documenting criminal history background information;

(5) A completed Request for Background Checks for an Administrator's License (Form 3017) and background check fee; and

(6) An application fee of \$100.

(b) An applicant for a full CCAL that does not meet the one year of management or supervisory experience required in §745.8915(a)(3) of this subchapter (relating to How do I qualify for a full Child-Care Administrator's License (CCAL)?) may qualify for a provisional CCAL. To apply for a provisional CCAL, the applicant's employer or supervisor reference required in subsection (a)(3)(B) of this section must document six months of management or supervisory experience as required in §745.8927 of this subchapter (relating to What qualifies as six months of experience in management or supervision of personnel required for a provisional Child Care Administrator's License (CCAL)?).

(c) An applicant for an administrator's license under §745.8913(a) of this subchapter (relating to Qualifying for an Administrator's License Through a License from Another State) is only required to submit:

(1) An Application for a Child-Care Administrator's License or a Child-Placing Agency Administrator's License (Form 3015) and complete Sections I, VIII, and X;

(2) A notarized Affidavit for Applicants for Employment with a Licensed Operation or Registered Child-Care Home (Form 2985) documenting criminal history background information;

(3) A completed Request for Background Checks for an Administrator's License (Form 3017) and background check fee;

(4) Proof of the applicant's administrator's license or any other professional or occupational license that the applicant holds by another state; and

(5) A copy of the regulations pertaining to the license issued by another state or a web address where the regulations can be found.

(d) A military member, military spouse, or military veteran applying for an administrator's license through alternative licensing or by demonstrating other methods of competency must comply with the application requirements at §745.9027 of this subchapter (relating to Application Requirements for an Administrator's License from a Military Member, Spouse, or Veteran).

(e) A military member or military spouse applying to act as an administrator without a license must comply with the application requirements at §745.9030 of this subchapter (relating to Military Member or Spouse Acting as an Administrator Without a License),

(f) An application is incomplete if it fails to include any requirement of this section, as applicable, including inadequate documentation of qualifications.

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

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DIVISION 3. LICENSING'S REVIEW OF AN APPLICATION

26 TAC §745.8965, §745.8967

STATUTORY AUTHORITY

The amendments are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.8965. *Requesting Review of Timeframes for an Application.*

If an applicant believes that Child Care Regulation (CCR) did not process the Administrator's License application within the appropriate timeframes, the applicant may request that the Associate Commissioner for Child Care Regulation review the situation. The applicant must submit the written request for review within 30 days after the CCR timeframe expires. The applicant must send the request to: Associate Commissioner for Child Care Regulation, Texas Health and Human Services Commission, E-550, P.O. Box 149030, Austin, Texas 78714-9030. The request must include a specific complaint and any supporting documentation.

§745.8967. *Review of Timeframes for an Application.*

(a) After receiving a request for a review of the Administrator's License application timeframes, the associate commissioner or designee will:

(1) Determine if Child Care Regulation (CCR) processed the application within the appropriate timeframes, and if not, whether there was good cause to exceed the timeframes; and

(2) Notify the applicant of the decision within 30 days of receiving the request.

(b) CCR will reimburse the application fee if the associate commissioner or designee determines that CCR exceeded the timeframes without good cause.

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

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DIVISION 4. MAINTAINING AN ADMINISTRATOR'S LICENSE

26 TAC §745.8976

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, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.8976. *Length of Time a Provisional Child-Care Administrator's License is Valid.*

A provisional Child-Care Administrator's License (CCAL) is valid for the timeframe listed in the following chart.

Figure: 26 TAC §745.8976

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

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DIVISION 6. MILITARY MEMBERS,
MILITARY SPOUSES, AND MILITARY
VETERANS

26 TAC §§745.9023 - 745.9030

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

§745.9023. *Definitions for Division 6.*

These terms have the following meanings when used in this division:

(1) Military member--A person who is currently serving full-time in:

(A) Any branch of the United States Armed Forces, which include the United States Army, Navy, Air Force, Space Force, Coast Guard, and Marine Corps;

(B) A reserve unit of one of the branches of the United States Armed Forces, including the National Guard; or

(C) The state military service of any state, such as the Texas National Guard or the Texas State Guard.

(2) Military spouse--A person married to a military member.

(3) Military veteran--A person who has served as a military member and was discharged or released from service.

§745.9024. *Alternative Licensing for a Military Member, Spouse, or Veteran.*

(a) Alternative licensing is available to a military member, military spouse, or military veteran who applies for an administrator's license and:

(1) Is licensed in good standing by another state that has licensing requirements substantially equivalent to the requirements for a license under this chapter as determined by Child Care Regulation (CCR) under §745.8914 of this subchapter (relating to Determining Whether Another State's Licensing Requirements Are Substantially Equivalent to the Requirements in This Subchapter); or

(2) Held an administrator's license in Texas within the last five years.

(b) If the military member, military spouse, or military veteran meets an alternative licensing requirement in subsection (a) of this section, CCR will waive the examination, experience, and education prerequisites for an administrator's license in §745.8915 of this subchapter (relating to How do I qualify for a full Child-Care Administrator's License (CCAL)?), §745.8917 of this subchapter (relating to How do I qualify for a full Child-Placing Agency Administrator's License (CPAAL)?), or both.

(c) To be eligible to obtain a license under this section, the military member, military spouse, or military veteran must not be:

(1) Prohibited from receiving or continuing to maintain an administrator's license, as specified in §745.775(c) of this chapter (relating to How may a criminal conviction or a child abuse or neglect

finding affect my ability to receive or maintain an administrator's license?); or

(2) Ineligible to apply for an administrator's license under §745.9037(c) of this subchapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?).

(d) If CCR issues an administrator's license under this section, the license will be a full license.

§745.9025. *Substitute Methods for a Military Member, Spouse, or Veteran to Demonstrate Competency.*

For a military member, military spouse, or military veteran who is applying for an administrator's license, but does not have an administrator's license issued by another state and has not held an administrator's license in Texas within the last five years, the Associate Commissioner for Child Care Regulation, or a designee may accept a substitute method to demonstrate compliance with examination, experience, and education qualifications, including:

(1) Accepting proof of a passing score on a national exam or other examination that demonstrates, as appropriate, competence in the field of:

(A) Child-care administration; or

(B) Child-placing administration.

(2) Crediting the military member, military spouse, or military veteran for verified military service, training, education, or clinical or professional experience that meets the experience or education requirements; and

(3) Substituting any demonstrated competency that a military member, military spouse, or military veteran has to meet the experience and education qualifications.

§745.9026. *Waiving Fees for a Military Member, Spouse, or Veteran.* Child Care Regulation will waive the following fees for a military member, military spouse, or military veteran who meets the requirements to obtain an administrator's license under this subchapter:

(1) The application and examination fees; and

(2) A replacement fee as required by §745.8989 of this subchapter (relating to How do I get a replacement copy of my current administrator's license if the original is lost or destroyed?).

§745.9027. *Application Requirements for an Administrator's License from a Military Member, Spouse, or Veteran.*

(a) If a military member, military spouse, or military veteran applies to become a licensed administrator or to act as an administrator without a license, the application must meet the requirements in this chart.

Figure: 26 TAC §745.9027(a)

(b) An application is incomplete if it fails to include any requirement of this section, as applicable.

§745.9028. *Expedited Application Process for a Military Member, Spouse, or Veteran.*

(a) Subsections (b) - (d) of this section apply to an application from:

(1) A military member, military spouse, or military veteran for an administrator's license under §745.9024 of this division (relating to Alternative Licensing for a Military Member, Spouse, or Veteran); or

(2) A military member or military spouse to act as an administrator without a license under §745.9030 of this division (relating

to Military Member or Spouse Acting as an Administrator Without a License).

(b) Within 21 days after receiving an application, Child Care Regulation (CCR) will determine whether the application is complete as described in §745.9027 of this division (relating to Application Requirements for an Administrator's License from a Military Member, Spouse, or Veteran). If CCR determines that the application is incomplete, CCR will notify the applicant of the following, as applicable:

(1) Why any application materials the applicant submitted do not show compliance with relevant statutes and rules; and

(2) Any additional materials that the applicant must submit to show compliance.

(c) Within 30 days after receiving a complete application, CCR will:

(1) Issue the applicant an administrator's license or approve the ability to act as an administrator without having an administrator's license; or

(2) Forward to Child Care Regulation Administrator (CCRA) Enforcement a recommendation to deny the applicant an administrator's license or the ability to act as an administrator without a license.

(d) CCRA Enforcement may deny:

(1) An administrator's license under §745.9024 of this division because:

(A) The license by another state:

(i) Is not in good standing; or

(ii) Does not meet the requirements of §745.8914 of this subchapter (relating to Determining Whether Another State's Licensing Requirements Are Substantially Equivalent to the Requirements in This Subchapter);

(B) The applicant is prohibited from receiving or continuing to maintain an administrator's license, as specified in §745.775(c) of this chapter (relating to How may a criminal conviction or a child abuse or neglect finding affect my ability to receive or maintain an administrator's license?); or

(C) The applicant is ineligible to apply for an administrator's license under §745.9037(c) of this subchapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?); or

(2) The applicant the ability to act as an administrator without a license because the applicant does not meet one of the requirements of §745.9030 of this division, including the applicant's license by another state:

(A) Is not in good standing; or

(B) Does not meet the requirements of §745.8914 of this subchapter.

(e) For a military member, military spouse, or military veteran who is applying for an administrator's license under this subchapter and does not have a license from another state, CCR will expedite the applicable application processes described in the following rules unless there is good cause to delay the process as described in §745.8969 of this chapter (relating to When does Licensing have good cause for not processing my application within the established time period?):

(1) §745.8951 of this subchapter (relating to What happens after Licensing receives my application materials and fees?); and

(2) §745.8961 of this subchapter (relating to What happens after I take a licensing examination?).

§745.9029. *Special Considerations for Renewal of a Military Member's Administrator's License.*

(a) The following special considerations are applicable to the renewal of a military member's administrator's license:

(1) An administrator's license will no longer be valid after two years, but the license will be considered dormant until the military member requests Child Care Regulation (CCR) to renew it or for two additional years, whichever comes first;

(2) No continuing education will be required prior to renewal; and

(3) CCR will waive late renewal fees required in (a)(2) and (3) in Figure: 40 TAC §745.9003(a) of this subchapter (relating to How much is the renewal fee?) if the military member establishes that the failure to renew the license in a timely manner was due to the military member's service.

(b) To be eligible for any special consideration under this section, the military member must not be prohibited from receiving or continuing to maintain an administrator's license, as specified in §745.775(c) of this chapter (relating to How may a criminal conviction or a child abuse or neglect finding affect my ability to receive or maintain an administrator's license?).

§745.9030. *Military Member or Spouse Acting as an Administrator Without a License.*

(a) A military member or military spouse may act as an administrator for a general residential operation, child-placing agency, or both, without obtaining an administrator's license under this subchapter and Chapter 43 of the Texas Human Resources Code, for up to three years if Child Care Regulation (CCR) determines that the military member or military spouse:

(1) Is licensed in good standing by another state that has licensing requirements that are substantially equivalent to the requirements for an administrator's license under this subchapter; and

(2) Meets the other requirements in this section.

(b) To evaluate whether the military member or military spouse is licensed in good standing by another state with requirements that are substantially equivalent to the requirements for an administrator's license under this subchapter, the military member or military spouse must submit:

(1) An Application for a Child-Care Administrator's License or a Child-Placing Agency Administrator's License (Form 3015) and complete Sections I, VIII, and X;

(2) A copy of a valid military identification card to establish the status of the military member or military spouse;

(3) A letter indicating intent to act as an administrator for a general residential operation, child-placing agency, or both in Texas;

(4) A copy of the permanent change of station order to Texas for the military member;

(5) Proof of the administrator's license or any other professional or occupational license held by another state; and

(6) A copy of the regulations pertaining to the license issued by another state or a web address where the regulations can be found.

(c) Once CCR receives the application and the additional documentation, CCR will:

(1) Verify that the application is complete, and the documentation is accurate;

(2) Determine whether the requirements for the license issued by another state are substantially equivalent to the requirements for an administrator's license according to §745.8914 of this subchapter (relating to Determining Whether Another State's Licensing Requirements Are Substantially Equivalent to the Requirements in This Subchapter); and

(3) Verify that the license by another state is in good standing.

(d) CCR will complete the actions in subsection (c) of this section and notify the military member or military spouse according to §745.9028(b) - (d) of this division (relating to Expedited Application Process for a Military Member, Spouse, or Veteran).

(e) If CCR approves the applicant's ability to act as an administrator for a general residential operation, child-placing agency, or both, the person acting as the administrator without a license must comply with all other applicable statutes, rules, and minimum standards, including those relating to:

(1) Administrator's Licensing in this subchapter and Chapter 43 of the Texas Human Resources Code;

(2) Subchapter F of this chapter (relating to Background Checks) when employed by a general residential operation or a child-placing agency; and

(3) Minimum standards for general residential operations and child-placing agencies.

(f) The approval to act as an administrator expires as provided in the following chart.
Figure: 26 TAC §745.9030(f)

(g) A military member or military spouse may request in writing a replacement copy of the letter approving the military member or military spouse to act as an administrator without a license. No fee is required, but the written request must include:

(1) A statement detailing the loss or destruction of the original approval letter; or

(2) The damaged letter.

(h) Child Care Regulation Administrator Enforcement may revoke the approval to act as an administrator without a license:

(1) For failure to comply with subsection (e) of this section;

(2) For any reason noted in §745.9037 of this subchapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?); or

(3) If the military member or military spouse is no longer licensed in good standing by another state.

(i) CCR may not renew the approval to act as an administrator without a license.

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

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Karen Ray
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Health and Human Services Commission
Effective date: February 12, 2025
Proposal publication date: September 13, 2024
For further information, please call: (512) 438-3269



26 TAC §§745.9025 - 745.9027

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §43.005 permits HHSC to adopt rules to administer Chapter 43.

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

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 350. TEXAS RISK REDUCTION PROGRAM

SUBCHAPTER D. DEVELOPMENT OF PROTECTIVE CONCENTRATION LEVELS

30 TAC §350.76

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §350.76.

Amended §350.76 is adopted without change to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6702) and, therefore, will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The purpose of this rulemaking is to amend 30 Texas Administrative Code (TAC) Chapter 350, Texas Risk Reduction Program (TRRP) rule §350.76, pertaining to the chemical-specific approaches used for developing and demonstrating attainment of the critical human health protective concentration levels (PCLs)

for dioxins/furans and dioxin-like polychlorinated biphenyls (PCBs).

The TCEQ rulemaking adoption updates the approach for developing soil PCLs for dioxins/furans and dioxin-like PCBs used for residential and commercial/industrial land use under TRRP. The current approach is covered in the TRRP rule in §350.76(d) and §350.76(e), and the current PCLs are specified in the TRRP rule at §350.76(e)(3). The PCLs contained in the existing TRRP rule were based on a then-current 1998 United States Environmental Protection Agency (EPA) policy memo (OSWER Directive 9200.4-26), which described an approach for addressing dioxins in soil. Since that time, the EPA completed a reassessment of this approach and derived an updated reference dose for dioxins. Based on more recent scientific evaluations, the TCEQ can support the use of a reference dose in the range of EPA's updated value, and that value is reflected in the approach provided in this rulemaking adoption. Upon the effective date of the adopted revisions, any activity conducted pursuant to TRRP must comply with the revised approach for developing dioxins/furans and dioxin-like PCBs soil PCLs used for residential and commercial/industrial land use under TRRP.

Additionally, the rulemaking adoption updates the toxicity equivalency factors (TEFs) related to dioxins/furans and dioxin-like PCBs contained in §350.76(d)(2)(B). Dioxins/furans and dioxin-like PCBs are mixtures of chemical compounds (congeners) with different toxicities. TRRP §§350.76(d) and (e) use TEFs to assess the relative toxicity of the individual congeners compared to the toxicity of the most toxic congener, 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCDD), within a mixture of dioxins/furans and dioxin-like PCBs. The TEFs are applied as a multiplier of the concentration of each measured congener to calculate a 2,3,7,8-TCDD toxicity equivalency quotient (TEQ) concentration. The resulting 2,3,7,8-TCDD TEQ concentrations for each congener are summed to derive a total 2,3,7,8-TCDD TEQ concentration for the entire mixture. The total 2,3,7,8-TCDD TEQ concentration is then compared to a 2,3,7,8-TCDD PCL to determine the nature and extent of contamination and whether a remedy is required. The TRRP rule provides specific TEFs for various dioxins/furans and dioxin-like PCB compounds and directs persons to use these TEF values when demonstrating attainment of the critical PCL.

When the TRRP rule was promulgated in 1999, the most recent TEF values established by the World Health Organization (WHO) in 1998 were listed in the rule. However, based on evolving science and current data, WHO updated the TEF values in 2005 and continues to develop the most current TEF values. EPA and other regulatory agencies have been using the 2005 WHO TEFs. The adopted TRRP §350.76 rule revision will allow cleanups being conducted under TRRP to adopt the 2005 WHO TEFs or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director. Upon the effective date of the adopted revisions, any activity conducted pursuant to TRRP must comply with the 2005 WHO TEFs, or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director, for dioxin-like PCBs and dioxins/furans.

The TRRP chemical-specific PCL approaches for dioxins/furans and dioxin-like PCBs are being revised in this rulemaking adoption to reflect updated information on dioxin toxicity and address appropriate updates to the WHO TEFs for dioxins/furans and dioxin-like PCBs. Adoption of the rule also provides TCEQ with the flexibility needed to evaluate and adopt more recent TEFs

that have been derived since the TRRP rule was first adopted in 1999.

Section by Section Discussion

Subchapter D: Development of Protective Concentration Levels

The commission adopts the amendment to §350.76(d)(2)(B) which removes the figure and the directive for persons to use TEFs specified therein when determining a 2,3,7,8-TCDD TEQ for dioxin-like PCBs. The adopted rule will direct persons to apply the 2005 WHO TEFs, or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director, to the measured concentrations for each of the dioxin-like PCBs.

The commission adopts new subsection §350.76(d)(3). This subsection clarifies that a person may be required to evaluate the adequacy of a response action when the executive director determines that a substantial change in the TEFs alters the calculated TEQ in such a way that results in the actual toxicity of the dioxin-like PCB mixture not being protective of human health and the environment. The rule also specifies that it is possible that a person might not be required to conduct a response action in the case where a significant change in the TEFs affects the TEQ in such a way that reveals a response action is no longer warranted to protect human health and the environment. To maintain the numerical order of the rule, previous subsections (d)(3) and (d)(4) are being renumbered to (d)(4) and (d)(5), respectively.

The commission amends §350.76(e)(1) by removing the directive for persons to use TEFs specified in the figure included in subsection (d)(2)(B), when demonstrating attainment of the critical PCL for 2,3,7,8-TCDD. The adopted rule will direct persons to apply the 2005 WHO TEFs, or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director, to demonstrate attainment of the critical PCL for 2,3,7,8-TCDD.

The commission's rulemaking adoption amends §350.76(e)(1)(B) to clarify that, when homologue-specific analytical data are available, persons shall apply the 2005 WHO TEFs or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director. Additionally, this subsection clarifies that if a homologue class has more than one TEF for different congeners, persons shall use the highest of the latest TEFs that have been reviewed and approved by the executive director for that congener class. Additionally, the rulemaking adoption removes the language specifying that a TEF value of 0.5 be used for the pentachlorodibenzofuran homologue class.

The commission adopts the amendment for §350.76(e)(1)(C) to clarify that, when congener-specific analytical data are available, persons shall apply the 2005 WHO TEFs or more recent TEFs established by a scientifically valid source that have been reviewed and approved by the executive director.

The commission adopts a new subsection §350.76(e)(1)(D). This subsection clarifies that a person may be required to evaluate the adequacy of a response action when the executive director determines that a substantial change in the TEFs alters the calculated TEQ in such a way that it results in the actual toxicity of the dioxin and furan mixture not being protective of human health and the environment. The rule also specifies that it is possible that a person might not be required to conduct a response action in the case where a significant change in the TEFs affects the TEQ in such a way that reveals a response

action is no longer warranted to protect human health and the environment.

The commission adopts the amendment to §350.76(e)(3) which removes language that establishes the critical soil PCL for residential properties for all three tiers as 1 part per billion (ppb) and for commercial/industrial properties for all three tiers as 5 ppb. The adopted rule specifies that the critical soil PCLs for residential and commercial/industrial properties shall be calculated for a 2,3,7,8-TCDD TEQ according to the equations and rule provisions provided in §350.75.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of the Texas Government Code, §2001.0225. The commission determined that the action is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

The specific intent of the rulemaking adoption is to adjust TRRP §350.76 methods and measures related to dioxins/furans and dioxin-like PCBs to align with current accepted science. Specifically, the rulemaking adoption revises the dioxin/furan and dioxin-like PCB soil PCLs used for residential and commercial/industrial land use under TRRP and updates TEFs related to dioxins/furans and dioxin-like PCBs contained in §350.76 in light of more recent scientific evaluation, evolving science, and current data. The rulemaking adoption is not expected to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Instead, the rulemaking adoption may affect the costs and timeliness of cleanups of those sites where dioxins/furans or dioxin-like PCBs are the subject of investigation or remediation pursuant to TRRP. The adopted amendments do not rise to the level of material modifications, but instead are limited to incorporating modifications to the current regulatory framework based on current science and data regarding dioxins/furans and dioxin-like PCBs. Therefore, the rulemaking adoption does not meet the definition of a major environmental rule.

Furthermore, even if the rulemaking adoption did meet the definition of a major environmental rule, the rulemaking adoption does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225. Section 2001.0225 applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general powers of the agency instead of under a specific state law. The rulemaking adoption does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225.

First, the rulemaking does not exceed a standard set by federal law. Second, the rulemaking does not adopt requirements that are more stringent than existing state laws. Third, the rulemaking

adoption does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government, where the delegation agreement or contract is to implement a state and federal program. Fourth, this rulemaking does not adopt a rule solely under the general powers of the agency. Rather, sections of the TWC, Chapter 26, and Texas Health & Safety Code, Chapter 361, authorize this rulemaking, which are cited in the Statutory Authority section of this preamble.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. The TCEQ did not receive any comments on the regulatory impact analysis.

Takings Impact Assessment

The commission evaluated the rulemaking adoption and performed analysis of whether the adopted rules constitute a taking under Texas Government Code, Chapter 2007. The specific purpose of the adopted rules is to adjust TRRP §350.76 methods and measures related to dioxins/furans and dioxin-like PCBs to align with current accepted science. The rulemaking adoption substantially advances this stated purpose by revising the soil PCLs and updating the TEFs related to these constituents.

Promulgation and enforcement of this rulemaking adoption is neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally) nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, the rulemaking adoption does not burden private real property because it incorporates modifications to the current regulatory framework based on current science and data regarding dioxins/furans and dioxin-like PCBs.

Consistency with the Coastal Management Program

This rulemaking is not applicable to the Coastal Management Program.

Public Comment

The commission offered a public hearing on September 30, 2024. The comment period closed on October 1, 2024 and no public comments were received.

Statutory Authority

The rule change is adopted under the authority of Texas Water Code (TWC), §5.102, concerning general powers of the commission; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out its power and duties; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §26.011, which authorizes the commission to administer the provisions of TWC, Chapter 26; TWC, §26.039, which states that activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances and which pose serious or significant threats of pollution are subject to reasonable rules establishing safety and preventative measures which the commission may adopt or issue; TWC, §26.121, which prohibits persons from discharging wastes into or adjacent to any water in the state unless authorized to do so and prohibits persons from engaging in any other activity which causes pollution of any water in the state; TWC, §§26.262 and 26.264, which state it is the policy of this state

to prevent the spill or discharge of hazardous substances into the waters in the state and authorizes the commission to issue rules to carry out the policy; TWC, §§26.341 and 26.345, which state it is the policy of this state to maintain and protect quality of groundwater and surface water resources from pollution from certain substances in underground and above-ground storage tanks and authorizes the commission to adopt rules to carry out the policy; TWC, §26.401, which states that it is the policy of this state that discharges of pollutants, disposal of wastes, or other activities subject to state regulation be conducted in a manner to maintain and not impair groundwater uses or pose a public health hazard, and that groundwater quality be restored if feasible; Texas Health & Safety Code (THSC), §§361.017 and 361.024, which establish the commission's jurisdiction over all aspects of the management of industrial solid waste and hazardous municipal waste with all power necessary or convenient to carry out the responsibilities of that jurisdiction and authorizes the commission to adopt rules; and THSC, Chapter 361, Subchapter F, which authorizes the commission to identify, assess, and remediate facilities that may constitute an imminent and substantial endangerment to public health

and safety or the environment due to a release or threatened release of hazardous substances into the environment.

The adopted rules implement TWC, Chapter 26, and THSC, Chapter 361.

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

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