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THE GOVERNOR

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

Appointments

Appointments for January 13, 2025

Promoted to the rank of Major General in Headquarters, Texas State Guard, Austin, Texas, with all rights, privileges and emoluments appertaining to this office, effective January 15, 2025, Roger O. Sheridan.

Appointed to the Statewide Health Coordinating Council for a term to expire August 31, 2027, Billie Bell of Hondo, Texas (replacing Tamara G. Rhodes of Amarillo, who resigned).

Appointed to the Statewide Health Coordinating Council for a term to expire August 31, 2029, Lauren H. Day of Austin, Texas (replacing D. Bailey Wynne of Duncanville, who resigned).

Appointed to the Teacher Retirement System of Texas Board of Trustees for a term to expire August 31, 2029, Laronda K. Graf of Queen City, Texas (replacing Frances "Nanette" Sissney of Whitesboro, whose term expired).

Appointed to the Texas Juvenile Justice Board for a term to expire February 1, 2029, Shawn N. Thierry of Pearland, Texas (replacing Jerry D. Bullard of Colleyville, who resigned).

Named as designee to the Homeland Security Council for a term to expire at the pleasure of the Governor, Freeman F. Martin of Liberty Hill, Texas (replacing Steve C. McCraw of Austin.) Colonel Martin will serve as Presiding Officer of the Council.

Named as designee to the First Responder Advisory Council for a term to expire at the pleasure of the Governor, Freeman F. Martin of Liberty Hill, Texas.

Named as designee to the Private Sector Advisory Council, pursuant to Government Code Section 421.042, for a term to expire at the pleasure of the Governor, Freeman F. Martin of Liberty Hill, Texas.

Appointments for January 14, 2025

Designating Bradley S. "Brad" Lomax of Corpus Christi as presiding officer of the Commercial Oyster Mariculture Advisory Board for a one-year term.

Pursuant to HB 1809, 88th Legislature, Regular Session, appointed to the Commercial Oyster Mariculture Advisory Board for a term to expire February 1, 2028, Mario A. Marquez of Palacios, Texas.

Appointed to Humanities Texas for a term to expire December 31, 2026, April L. Graham of Bryan, Texas (Ms. Graham is being reappointed).

Appointed to Humanities Texas for a term to expire December 31, 2026, Amanda S. Nobles of Longview, Texas (Ms. Nobles is being reappointed).

Appointed to Humanities Texas for a term to expire December 31, 2026, Kerry A. Reyna of San Antonio, Texas (replacing Trasa L. Cobern of Hurst, whose term expired).

Appointments for January 15, 2025

Appointed to the Rehabilitation Council of Texas for a term to expire October 29, 2027, Melva S. Henderson of Dallas, Texas (replacing Patrick D. Sturdivant of San Antonio, whose term expired).

Appointed as the Commander of the Texas State Guard for a term to expire at the pleasure of the Governor, Roger O. Sheridan of Bryan, Texas (replacing Anthony Woods of Frisco).

Appointed to the Texas Ethics Commission for a term to expire November 11, 2027, Geanie W. Morrison of Victoria, Texas (replacing Chad M. Craycraft of Highland Park, whose term expired).

Appointments for January 16, 2025

Appointed to the Family and Protective Services Council for a term to expire February 1, 2029, Katrina M. Griffith of Houston, Texas (replacing Bonnie C. Hellums of Houston, who resigned).

Appointed to the Early Childhood Intervention Advisory Council for a term to expire February 1, 2027, Lori Gabbert Charney of Austin, Texas (replacing Jeremy Triplett of Austin, who resigned).

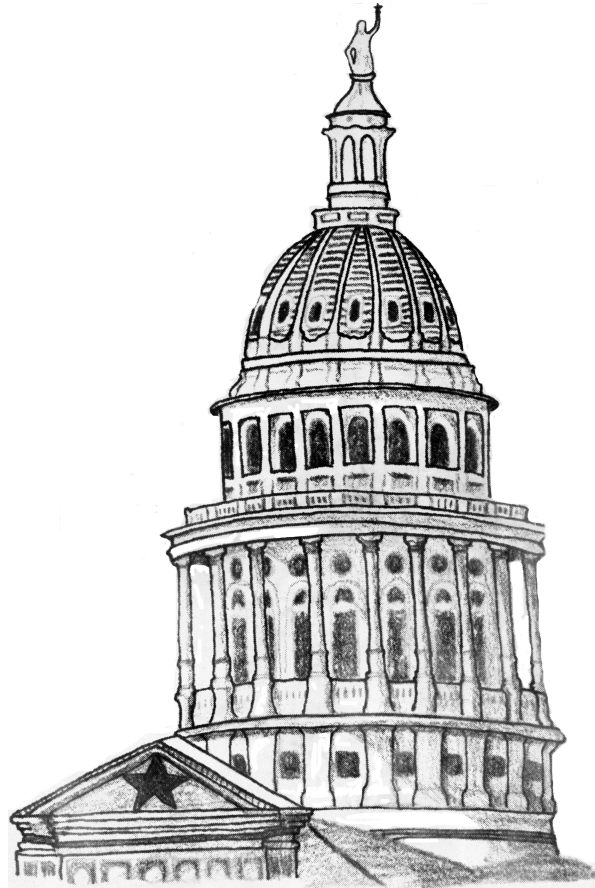
Appointed to the Early Childhood Intervention Advisory Council for a term to expire February 1, 2027, Felicia A. Penn of San Antonio, Texas (replacing Sarah E. Abrahams of Austin, who resigned).

Appointed to the Early Childhood Intervention Advisory Council for a term to expire February 1, 2029, Kathryn K. Shields of Arlington, Texas (replacing Melissa G. Griffiths of Trophy Club, whose term expired).

Greg Abbott, Governor

TRD-202500199





PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §355.8085, concerning Reimbursement Methodology for Physicians and Other Practitioners; and §355.8441, concerning Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services.

BACKGROUND AND PURPOSE

The purpose of the proposal is to clarify the current structure of reimbursement methodologies for certain services and programs administered by HHSC. The amendments add details to describe the methodology HHSC uses to determine reimbursement amounts to Licensed Behavior Analysts (LBAs) and Licensed Assistant Behavior Analysts (LaBAs) for Applied Behavior Analysis (ABA) professional services. The amendment also adds wage statistic data as an element to be considered for reimbursement methodology for Physicians and Other Practitioners.

In addition, following a Centers for Medicare & Medicaid Services (CMS) revision of their reimbursement methodologies, references to the Medicare reimbursement methodology are being updated to be in line with the CMS changes. The intent is to remove outdated reimbursement percentages and references to the Medicare average sales price and replace them with simpler references to the Medicare fee schedules where applicable. Where §355.8085 currently specifies its applicability to the Texas Medicaid program, the language has been revised to include "and other programs administered by Texas HHSC" in order to add clarity that the rule can apply to other programs in addition to Medicaid. This update provides clarification regarding the scope of the reimbursement methods.

SECTION-BY-SECTION SUMMARY

Edits were made throughout §355.8085 and §355.8441 to correct punctuation, grammar, and references, and to clarify phrases.

Proposed amendment to §355.8085(a) adds an analysis of wage statistics data as one of the elements HHSC considers when reviewing fees for individual services at least every two years.

Proposed amendment to §355.8085(b) adds LBAs and LaBAs to the list of eligible providers.

Proposed amendment to §355.8085(e)(5) removes any references to a percentage of Medicare average sales price and replaces previous references with a reference to the Medicare rate.

Proposed amendment §355.8085(g)(6) adds a reference to §355.8441 as the location in which reimbursement methodology for LaBAs is defined.

Proposed amendment §355.8441(a)(13) defines reimbursement methodologies for LBAs and LaBAs.

FISCAL NOTE

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

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

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

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

The rules do not impose any additional costs or requirements on small businesses, micro-businesses, or rural communities that are required to comply with the rules. The proposed rules clarify reimbursement methodologies for services that are already covered.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

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

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rules are in effect, the public will benefit from added transparency regarding reimbursement for these services.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because there is no cost associated with this rule update.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC HEARING

A public hearing to receive comments on the proposal will be held via webinar. The meeting date and time will be posted on the HHSC Communications and Events Website at <https://hhs.texas.gov/about-hhs/communications-events> and the HHSC Provider Finance communications website at <https://pfd.hhs.texas.gov/provider-finance-communications>.

Persons requiring further information, special assistance, or accommodations should email the Provider Finance Acute Care's section at PFDAcuteCare@hhs.texas.gov, if you have questions.

PUBLIC COMMENT

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

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R091" in the subject line.

DIVISION 5. GENERAL ADMINISTRATION

1 TAC §355.8085

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and by Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance

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

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

§355.8085. *Reimbursement Methodology for Physicians and Other Practitioners.*

(a) Introduction. This section describes the [Texas Medicaid] reimbursement methodology that the Texas Health and Human Services Commission (HHSC) uses to calculate payment for covered services provided by physicians and other practitioners within Texas Medicaid and other programs administered by HHSC.

(1) There is no geographical or specialty reimbursement differential for individual services.

(2) HHSC reviews the fees for individual services at least every two years based upon:

(A) analysis of Medicare fees for the same or similar item or service;

(B) analysis of Medicaid fees for the same or similar item or service in other states; [ø]

(C) analysis of commercial fees for the same or similar item or service; or[.];

(D) an analysis of wage statistics data.

(3) HHSC may use data sources or methodologies other than those listed in paragraph (2) of this subsection to establish reimbursement [Medicaid] fees for physicians and other practitioners when HHSC determines that those methodologies are unreasonable or insufficient.

(4) Fees for these services are adjusted within available funding as described in §355.201 of this chapter [title] (relating to Establishment and Adjustment of Reimbursement Rates for Medicaid [by the Health and Human Services Commission].)

(b) Eligible Providers. Eligible providers include the following.[.];

- (1) Providers of Laboratory and X-ray Services;
- (2) Providers of Radiation Therapy;
- (3) Physical, Occupational, and Speech Therapists;
- (4) Physical, Occupational, and Speech Therapy Assistants;
- (5) Physicians;
- (6) Podiatrists;
- (7) Chiropractors;
- (8) Optometrists;
- (9) Dentists;
- (10) Psychologists;
- (11) Licensed Psychological Associates;
- (12) Provisionally Licensed Psychologists;
- (13) Licensed Psychological Interns and Fellows;
- (14) Maternity clinics;

- (15) State Supported Living Centers;
- (16) Tuberculosis clinics; ~~and~~
- (17) Peer Specialists;~~[-]~~
- (18) Licensed Behavior Analysts (LBAs); and
- (19) Licensed Assistant Behavior Analysts (LaBAs).

(c) Definitions. When used in this section, these words and terms have the following meanings unless the context clearly indicates otherwise. ~~[The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.]~~

(1) Access-based fees (ABF)--Fees for individual services, where HHSC deems necessary, to account for deficiencies relating to the adequacy of access to health care services.

(2) Biological--A substance that is made from a living organism or its products and is used in the prevention, diagnosis, or treatment of cancer and other diseases.

(3) Conversion factor--The dollar amount by which the sum of the three cost component relative value units (RVUs) is multiplied to obtain a reimbursement fee for each individual service.

(4) Drug--Any substance that is used to prevent, diagnose, treat or relieve symptoms of a disease or abnormal condition.

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

(6) Relative value units (RVUs)--The relative value assigned to each of the three individual components that comprise the cost of providing individual ~~[Medicaid]~~ services for Medicaid and other programs administered by HHSC. The three cost components of each reimbursement fee are intended to reflect the work, overhead, and professional liability expense required to provide each individual service.

(7) Resource-based fees (RBF)--Fees for individual services based upon HHSC's determination of the resources that an economically efficient provider requires to provide individual services.

(8) Vaccine--An immunogen, the administration of which is intended to stimulate the immune system to result in the prevention, amelioration or therapy of any disease or infection.

(d) Calculating the payment amounts. Subject to qualifications, limitations, and exclusions as provided in this chapter, payment to eligible providers must not exceed the lesser of the provider's billed amount or the amount derived from the methodology described in this section. The fee schedule that results from the reimbursement methodology may be composed of both ABFs ~~[access-based fees (ABFs)]~~ and (RBFs) ~~[resource-based fees (RBFs)]~~.

(1) ABF methodology allows the state to:

(A) reimburse for procedure codes not covered by Medicare;

(B) account for inadequate reimbursement rates for particularly difficult procedures;

(C) encourage participation in the HHSC administered programs ~~[Medicaid program]~~ by physicians and other practitioners; and

(D) set reimbursement to allow the eligible HHSC administered program's ~~[Medicaid]~~ population to receive adequate health care services in an appropriate setting.

(2) An RBF is calculated using the following formula: $RBF = (total\ RVU * CF)$, where RBF = Resource-Based Fee, total RVU = the sum of the three Relative Value Units that comprise the cost of providing individual ~~[Medicaid]~~ services, and CF = Conversion Factor.

(A) Except when ~~[as otherwise]~~ specified otherwise, HHSC bases the RVUs that are employed in the HHSC ~~[Texas Medicaid]~~ reimbursement methodologies on ~~[methodology upon]~~ the RVUs of the individual services as specified in the Medicare Fee Schedule. HHSC reviews any changes to, or revisions of, the various Medicare RVUs and, if applicable, adopts the changes as part of the reimbursement methodology within available funding.

(B) HHSC may develop and apply multiple conversion factors for various classes of service, such as obstetrics, pediatrics, general surgeries, and/or primary care services.

(c) Reimbursement for physician-administered drugs, vaccines, and biologicals. In determining the reimbursement methodology for physician-administered drugs, vaccines, and biologicals, HHSC may consider information such as costs, utilization, data sufficiency, and public input. Reimbursement for physician-administered drugs, vaccines, and biologicals is ~~[are]~~ based on the lesser of the billed amount, a percentage of the Medicare rate, or one of the following methodologies:

(1) If the drug or biological is considered a new drug or biological (that is, approved for marketing by the Food and Drug Administration within 12 months of implementation as a benefit of HHSC-administered programs ~~[Texas Medicaid]~~), it may be reimbursed at an amount equal to 89.5 percent of the average wholesale price (AWP).

(2) If the drug or biological does not meet the definition of a new drug or biological, it may be reimbursed at an amount equal to 85 percent of AWP.

(3) Vaccines may be reimbursed at an amount equal to 89.5 percent of AWP.

(4) Infusion drugs furnished through an item of implanted Durable Medical Equipment may be reimbursed at an amount equal to 89.5 percent of AWP.

(5) Drugs, other than vaccines and infusion drugs, may be reimbursed at a percentage of the Medicare rate ~~[an amount equal to 106 percent of the average sales price (ASP)]~~.

(6) HHSC may use other data sources or methodologies to establish its ~~[Medicaid]~~ fees for physician-administered drugs, vaccines, and biologicals when HHSC determines that the above methodologies are unreasonable or insufficient.

(f) Reimbursement for services provided under the supervision of a licensed psychologist. Services ~~[Reimbursement for services]~~ provided under the supervision of a licensed psychologist by a licensed psychological associate (LPA) or a provisionally licensed psychologist (PLP) are ~~[is]~~ reimbursed to the licensed psychologist at 70 percent of the fee paid to the licensed psychologist for the same service. Services ~~[Reimbursement for services]~~ provided under the supervision of a licensed psychologist by a licensed psychology intern or fellow are ~~[is]~~ reimbursed at 50 percent of the fee paid to a licensed psychologist for the same service.

(g) Reimbursement for certain other providers. The descriptions for reimbursement of certain other providers are described in sections of this chapter.

(1) Reimbursement for physician assistants is described in §355.8093 of this chapter [title] (relating to Reimbursement Methodology for Physician Assistants).

(2) Reimbursement for nurse practitioners and clinical nurse specialists is described in §355.8281 of this chapter [title] (relating to Reimbursement Methodology for Nurse Practitioners and Clinical Nurse Specialists).

(3) Reimbursement for services provided under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) is described in §355.8441 of this chapter [title] (relating to Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services).

(4) Reimbursement for Licensed Professional Counselors, Licensed Clinical Social Workers, and Licensed Marriage and Family Therapists is described in §355.8091 of this chapter [title] (relating to Reimbursement to Licensed Professional Counselors, Licensed Clinical Social Workers, and Licensed Marriage and Family Therapists).

(5) Reimbursement for Physical, Occupational, and Speech Therapy Services is described in §355.8097 of this chapter [title] (relating to Reimbursement Methodology for Physical, Occupational, and Speech Therapy Services).

(6) Reimbursement methodology for LaBAs is described in §355.8441 of this subchapter (relating to Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services).

(h) Fees for services provided by physicians or other practitioners are adjusted within available funding as described in §355.201 of this chapter [title] (relating to Establishment and Adjustment of Reimbursement Rates for Medicaid [by the Health and Human Services Commission]).

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

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

TRD-202500120

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 217-1686



DIVISION 23. EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)

1 TAC §355.8441

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and by Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and

Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

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

§355.8441. Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services.

(a) The following are reimbursement methodologies for services provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program, delivered to Medicaid clients under age 21, also known as Texas Health Steps (THSteps) and the THSteps Comprehensive Care Program (CCP). Reimbursement methodologies for services provided to all Medicaid clients, including clients under age 21, are located elsewhere in this chapter.

(1) Counseling and psychotherapy services are reimbursed to freestanding psychiatric facilities in accordance with §355.8060 of this subchapter (relating to Reimbursement Methodology for Freestanding Psychiatric Facilities).

(2) Durable Medical Equipment (DME)[medical equipment], prosthetics, orthotics and supplies (DMEPOS) are reimbursed in accordance with §355.8023 of this subchapter (relating to Reimbursement Methodology for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)).

(3) Nursing services, including, but not limited to, private duty nursing, registered nurse (RN) services, licensed vocational nurse/licensed practical nurse (LVN/LPN) services, skilled nursing services delegated to qualified aides by RNs in accordance with the licensure standards promulgated by the Texas Board of Nursing, and nursing assessment services, are reimbursed the lesser of the provider's billed charges or fees established by the Texas Health and Human Services Commission (HHSC) for each of the applicable provider types as follows.[-]

(A) Independently enrolled RNs and LVNs/LPNs, under §355.8085 of this subchapter (relating to Reimbursement Methodology for Physicians and Other Practitioners);

(B) Home health agencies (HHAs), under §355.8021 of this subchapter (relating to Reimbursement Methodology for Home Health Services); and

(C) Advanced Practice Registered Nurses (APRNs), under §355.8281(a) of this subchapter (relating to Reimbursement Methodology for Nurse Practitioners and Clinical Nurse Specialists).

(4) Physician Assistants (PA), under §355.8093 of this subchapter (relating to Reimbursement Methodology for Physician Assistants).

(5) Physical therapy services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8097 of this subchapter (relating to Reimbursement Methodology for Physical, Occupational, and Speech Therapy Services);

(B) HHAs, under §355.8097 of this subchapter;

(C) Medicare-certified outpatient facilities known as comprehensive outpatient rehabilitation facilities (CORFs) and

outpatient rehabilitation facilities (ORFs), under §355.8097 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter (relating to Outpatient Hospital Reimbursement).

(6) Occupational therapy services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8097 of this subchapter;

(B) HHAs, under §355.8097 of this subchapter;

(C) CORFs and ORFs, under §355.8097 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter.

(7) Speech-language pathology services are reimbursed in accordance with the Medicaid reimbursement methodologies for the applicable provider type as follows:

(A) independently enrolled therapists, under §355.8097 of this subchapter;

(B) HHAs, under §355.8097 of this subchapter;

(C) CORFs and ORFs, under §355.8097 of this subchapter;

(D) freestanding psychiatric facilities, under §355.8060 of this subchapter; and

(E) outpatient hospitals, under §355.8061 of this subchapter.

(8) Nutritional services provided by licensed dietitians are reimbursed the lesser of the provider's billed charges or fees determined by HHSC in accordance with §355.8085 of this subchapter.

(9) Providers are reimbursed for the administration of immunizations the lesser of the provider's billed charges or fees determined by HHSC in accordance with §355.8085 of this subchapter.

(10) Vaccines are reimbursed the lesser of the provider's billed charges or the fees determined by HHSC in accordance with §355.8085 of this subchapter.

(11) Dental services are reimbursed in accordance with the following Medicaid reimbursement methodologies.[]

(A) Dental services provided by enrolled dental providers are reimbursed in accordance with §355.8085 of this subchapter.

(B) Dental services provided by Federally Qualified Health Centers [federally qualified health centers] (FQHCs) are reimbursed in accordance with §355.8261 of this subchapter (relating to Federally Qualified Health Center Services Reimbursement).

(C) For services provided through September 30, 2019, publicly owned dental providers may be eligible to receive Uncompensated Care (UC) payments for dental services under the Texas Healthcare Transformation and Quality Improvement 1115 Waiver, as described in this section. For services provided beginning October 1,

2019, eligibility for publicly owned dental providers to receive waiver payments, and the methodology for calculating payment amounts, is described in §355.8208 [section 355.8208] of this subchapter (relating to Waiver Payments to Publicly-Owned Dental Providers for Uncompensated Charity Care) [title]. For purposes of this section, Uncompensated Care payments are payments intended to defray the uncompensated costs of services that meet the definition of "medical assistance" contained in §1905(a) of the Social Security Act. HHSC will calculate UC payments using the following methodology.[]

(i) Eligible dental providers must submit an annual cost report based on the federal fiscal year. HHSC will provide the cost report form with detailed instructions to enrolled dental providers. Cost reports are due to HHSC 180 days after the close of the applicable reporting period. Providers must certify that expenditures submitted on the cost report have not been claimed on any other cost report.

(ii) Payments to eligible providers will be based on cost and payment data reported on the cost report along with supporting documentation. As defined in the cost report and detailed instructions, a cost-to-billed-charges ratio will be used to calculate the total allowable cost. The total allowable cost minus any payments will be the UC payment due to the provider. The UC payment is calculated yearly and is contingent on receipt of funds as specified in clause (iii) of this subparagraph.

(iii) The funding for the state share of UC payments is limited to[] and obtained through, intergovernmental transfers of funds from the governmental entity that owns and operates the dental provider. An intergovernmental transfer that is not received in the manner and by the date specified by HHSC may not be accepted.

(iv) UC payments are limited by the publicly owned dental provider pool aggregate limit as determined by §355.8201 of this subchapter (relating to Waiver Payments to Hospitals for Uncompensated Care).

(v) If actual UC costs for all eligible publicly owned dental providers are [is] greater than the publicly owned dental provider pool aggregate limit as described in clause (iv) of this subparagraph, then HHSC will reduce the UC payments for all eligible publicly owned dental providers proportionately.

(vi) If a UC payment results in an overpayment or if the federal government disallows federal financial participation related to the receipt or use of supplemental payments under this section, HHSC may recoup an amount equal to the federal share of supplemental payments overpaid or disallowed. To satisfy the amount owed, HHSC may recoup from any current or future Medicaid payments.

(12) Personal care services (PCS) are reimbursed in accordance with the following Medicaid reimbursement methodologies for the applicable provider type.[]

(A) School districts delivering PCS under School Health and Related Services (SHARS) are reimbursed in accordance with §355.8443 of this division (relating to Reimbursement Methodology for School Health and Related Services (SHARS)).[] and

(B) Providers other than school districts delivering PCS are reimbursed as follows:

(i) PCS and PCS delivered in conjunction with delegated nursing services are reimbursed fees determined by HHSC. HHSC reviews the fees for individual services at least every two years based upon:

(I) analysis of Medicare fees for the same or similar item or service;

(II) analysis of Medicaid fees for the same or similar item or service in other states; or

(III) analysis of commercial fees for the same or similar item or service.

(ii) HHSC may use data sources or methodologies other than those listed in clause (i) of this subparagraph to establish Medicaid fees for physicians and other practitioners when HHSC determines that those methodologies are unreasonable or insufficient.

(iii) PCS delivered through the Consumer Directed Services payment option are reimbursed in accordance with §355.114 of this chapter (relating to Consumer Directed Services Payment Option).

(13) Licensed Behavior Analysts (LBAs) are reimbursed in accordance with §355.8085 of this subchapter and Licensed Assistant Behavior Analysts (LaBAs) are reimbursed at a percentage of LBAs' reimbursement rate.

(b) Fees for EPSDT services are adjusted within available funding as described in §355.201 of this chapter [title] (relating to Establishment and Adjustment of Reimbursement Rates for Medicaid [by the Health and Human Services Commission]).

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

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

TRD-202500121

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 217-1686



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.15

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, §1.15, Integrated Housing Rule. The purpose of the proposed repeal is to include updates to references and make minor technical corrections.

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

The Department has analyzed this proposed 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 has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to integrated housing for recipients of Department funds.

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

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

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

6. The repeal will not expand, limit, or repeal an existing regulation.

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 the 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 changed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to

receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

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 repeal affects no other code, article, or statute.

§1.15. Integrated Housing Rule.

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

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

TRD-202500144

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 2, 2025

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



10 TAC §1.15

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, §1.15, Integrated Housing Rule. The purpose of the proposed new rule is to include updates to references and make minor technical corrections.

Tex. Gov't Code §2001.0045(b) does not apply to 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 has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to integrated housing for recipients of Department funds.
2. The new section 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 section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

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

8. The new section 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 the new section and determined that it 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 new section does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section 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 new section is in effect, the public benefit anticipated as a result of the new section would be a more current and germane rule. There will not be economic costs to individuals required to comply with the new section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

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

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

§1.15. Integrated Housing Rule.

(a) Purpose. It is the purpose of this section to provide a standard by which Developments funded by the Department offer an integrated housing opportunity for Households with Disabilities. This rule is authorized by Tex. Gov't Code, §2306.111(g) that promotes projects that provide integrated affordable housing.

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

(1) Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Part that govern the program associated with the funded or awarded Development, or assigned by federal or state law.

(2) Households with Disabilities--A Household composed of one or more persons, at least one of whom is an individual who is determined to have a physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Included in this meaning is the term handicap as defined in the Fair Housing Act or disability as defined by other applicable federal or state law.

(3) Integrated Housing--Living arrangements typical of the general population. Integration is achieved when Households with Disabilities have the option to choose housing units that are located among units that are not reserved or set aside for Households with Disabilities. Integrated Housing is distinctly different from assisted living facilities/arrangements.

(4) Unit--Has the meaning in §11.1(d) of this title, or of Single Family Housing Unit in §20.3 of this title, or Dwelling Unit in §7.2 of this title, or as determined by the applicable funding source or funding announcement.

(c) Applicability. This rule applies to:

(1) All Multifamily Developments subject to Chapter 11 of this title, Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules), and Chapter 13 of this title (relating to Multifamily Direct Loan Rule), with the exclusion of Transitional Housing Developments;

(2) Single Family Developments subject to Chapter 23, Subchapter F, Single Family Development Program, of this title (relating to Single Family HOME Program), §7.3 of this title, or done with Neighborhood Stabilization Program funds, with the exclusion of Shelters, Transitional Housing, and Scattered-site developments, meaning one to four family dwellings located on sites that are on non-adjacent lots, with no more than four units on any one site; and

(3) Only the restrictions or set asides placed on Units through a Contract, LURA, or financing source that limits occupancy to Persons with Disabilities. This rule does not prohibit a Development from having a higher percentage of actual occupants who are Persons with Disabilities.

(4) Previously awarded Multifamily Developments that would no longer be compliant with this rule are not considered to be in violation of the percentages described in subsection (d)(2) or (3) of this section if the award is made prior to September 1, 2018, and the restrictions or set asides were already on the Development or adopted in the Application for the Development.

(d) Integrated Housing Standard. Units exclusively set aside or containing a preference for Households with Disabilities must be dispersed throughout a Development.

(1) A Development may not market or restrict occupancy solely to Households with Disabilities unless required by a federal funding source.

(2) Developments with 50 or more Units shall not exclusively set aside more than 25% of the total Units in the Development for Households with Disabilities.

(3) Developments with fewer than 50 Units shall not exclusively set aside more than 36% of the Units in the Development for Households with Disabilities.

(e) Board Waiver. The Board may waive the requirements of this rule if the Board can affirm that the waiver of the rule is necessary to serve a population or subpopulation that would not be adequately served without the waiver, and that the Development, even with the waiver, does not substantially deviate from the principle of Integrated Housing.

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

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

TRD-202500145

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 2, 2025

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



SUBCHAPTER D. UNIFORM GUIDANCE FOR RECIPIENTS OF FEDERAL AND STATE FUNDS

10 TAC §§1.401, 1.403, 1.404, 1.407

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.401, Effective Date and Definitions, §1.403, Single Audit Requirements, §1.404, Purchase and Procurement Standards, and §1.407, Inventory Report. The purpose of the amendments is to bring the rule into conformance with the Texas Grant Management Standards Version 2.0 published by the Texas Comptroller of Public Accounts in October 2024.

Tex. Gov't Code §2001.0045(b) does not apply to 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 has determined that, for the first five years the amendments would be in effect:

1. The amendments do not create or eliminate a government program but relate to changes to an existing activity: how state and federal requirements are applied to recipients of Department funds.

2. The amendments do 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 amendments do not require additional future legislative appropriations.

4. The amendments will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendments are not creating a new regulation.
6. The amendments will amend an existing regulation.
7. The amendments will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amendments 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 the amendments and determined that the amendments 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 amendments do 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 amendments as to their possible effects on local economies and has determined that for the first five years the amendments 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 amendments are in effect, the public benefit anticipated as a result of the changed sections would be an updated and compliant rule. There will not be economic costs to individuals required to comply with the amended section.

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

PUBLIC COMMENT. The public comment period will be held from December 27, 2024 through January 28, 2025, to receive input on the proposed action.

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

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

§1.401. Effective Date and Definition.

(a) Revisions to this Subchapter reflect updates to 2 CFR Part 180 and 2 CFR Part 200, which [and] are generally effective for Contracts executed on or after October 1, 2024. This rule also reflects conformance with the Texas Grant Management Standards Version 2.0 (TxGMS) published by the Texas Comptroller of Public Accounts, which are effective for Contracts executed on or after September 1, 2025. TxGMS 2.0 may also be incorporated into Contracts executed

on or after October 1, 2024, and will be incorporated into Contracts where funds are added on or after September 1, 2025. Previous versions of these rules as memorialized in Contracts will continue to be effective unless the Contract is amended to reflect TxGMS 2.0, unless the Contract is amended to add additional funds on or after October 1, 2024, and that amendment specifically incorporates some or all of the provisions in the rule, to the extent federally allowed.]

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this title that govern the program associated with the request, or assigned by federal or state law.

(1) Affiliate--Shall have the meaning assigned by the specific program or programs described in this part.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Equipment--tangible personal property having a useful life of more than one year or a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by entity for financial statement purposes, or \$10,000 [(except in the ease of Contracts subject to TXGMS or UGMS, in which case \$5,000)].

(4) Professional services--for a unit of government is as defined by state law. For Private Nonprofit Organizations it means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising;
- (ix) professional nursing; or
- (x) legal services; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;
- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser;
- (ix) attorney; or
- (x) a registered nurse.

(5) Single Audit--The audit required by Office of Management and Budget (OMB), 2 CFR Part 200, Subpart F, or Tex. Gov't Code, chapter 783, Uniform Grant and Contract Management, as reflected in an audit report.

(6) Single Audit Certification Form--A form that lists the source(s) and amount(s) of Federal funds and/or State funds expended by the Subrecipient during their fiscal year along with the outstanding balance of any loans made with federal or state funds if there are continuing compliance requirements other than repayment of the loan.

(7) Subrecipient--Includes an entity receiving or applying for federal or state funds from the Department under Chapters 6, 7, 20, 23, 24, 25, or 26 as identified by Contract or in this subchapter. Except as otherwise noted in this subchapter or by Contract, the definition does not include Applicants/Owners who have applied for and/or received funds under a program administered by the Multifamily Finance Division, except for CHDO Operating funds, a grant made to a unit of government or nonprofit organization, or Affiliate, or TCAP-RF grants or loans when made to a unit of government or nonprofit organization or Affiliate. Except as otherwise noted in this subchapter or by Contract, this definition does not include vendors having been procured by the Department for goods or services. A Subrecipient may also be referred to as Administrator.

(8) Supplies--means tangible personal property other than "Equipment" in this section.

(9) Texas Grant Management Standards (TxGMS)--The standardized set of financial management procedures and definitions established by Tex. Gov't Code, chapter 783 regarding Uniform Grant and Contract Management to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. This includes TxGMS Version 2.0 published by the Texas Comptroller of Public Accounts in October 2024. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations including public housing and housing finance agencies. In addition, Tex. Gov't Code Chapter 2105, regarding Administration of Block Grants, subjects subrecipients of federal block grants (as defined therein) to TxGMS.

(10) Uniform Grant Management Standards (UGMS)--the standardized set of financial management procedures used by the Department in Contracts that began before January 1, 2022.

§1.403. Single Audit Requirements.

(a) For this section, the word Subrecipient also includes Multifamily Development Owners who have applied for or received Direct Loan Funds, grants or 811 PRA funds from the Department who are or have an Affiliate that is required to submit a Single Audit, i.e. units of government, nonprofit organizations.

(b) Procurement of a Single Auditor. A Subrecipient or Affiliate must procure their single auditor in the following manner unless subject to a different requirement in the Local Government Code:

(1) Competitive Proposal procedures whereby competitors' qualifications are evaluated and a contract awarded to the most qualified competitor. Proposals should be advertised broadly, which may include going outside the entity's service area, and solicited from an adequate number (usually two or more) of qualified sources. Procurements must be conducted in a manner that prohibits the use of in-state or local geographical preferences in the evaluation of bids or proposals;

(2) A Subrecipient may not use the sealed bid method for procurement of the Single Auditor. There is no requirement that the

selected audit firm be geographically located near the Subrecipient. If a Subrecipient does not receive proposals from firms with appropriate experience or responses with a price that is not reasonable compared to the cost price analysis, the submissions must be rejected and procurement must be re-performed.

(c) A Subrecipient or Affiliate must confirm that it is contracting with an audit firm that is properly licensed to perform the Single Audit and is not on a limited scope status or under any other sanction, reprimand or violation with the Texas State Board of Public Accountability. The Subrecipient must ensure that the Single Audit is performed in accordance with the limitations on the auditor's license.

(d) A Subrecipient is required to submit a Single Audit Certification form within two (2) months after the end of its fiscal year indicating the amount they expended in Federal and State funds during the fiscal year and the outstanding balance of any loans made with federal funds if there are continuing compliance requirements other than repayment of the loan.

(e) Subrecipients that expend \$1,000,000 or more in an entity's fiscal year that starts on or after October 1, 2024 (or in the case of an entity's fiscal years starting before October 1, 2024, \$750,000 or more) in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of \$1,000,000 or \$750,000 (as applicable for the fiscal year) with continuing compliance requirements, or a combination thereof must have a Single Audit or program-specific audit conducted. [~~Subrecipients that expend \$1,000,000 or more (or in the case of entities subject to TXGMS or UGMS of \$750,000 or more) in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of \$1,000,000 or more (or in the case of entities subject to TXMGS or UGMS of \$750,000 or more) with continuing compliance requirements, or a combination thereof must have a Single Audit or program-specific audit conducted.~~] If the Subrecipient's Single Audit is required by 2 CFR 200, subpart F, the report must be submitted to the Federal Audit Clearinghouse the earlier of 30 calendar days after receipt of the auditor's report or nine (9) months after the end of its respective fiscal year. If a Single Audit is required but not under 2 CFR Part 200, subpart F, the report must be submitted to the Department the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of its respective fiscal year. If the deadline is on a Saturday, Sunday, federal holiday (for a Single Audit required to be submitted to the Federal Audit Clearinghouse), or a state holiday (for a Single Audit required to be submitted to the Department), the deadline is the next business day.

(f) Subrecipients are required to submit a notification to the Department within five business days of submission to the Federal Audit Clearinghouse. Along with the notice, the Subrecipient must indicate if the auditor issued a management letter. If a management letter was issued by the auditor, a copy must be sent to the Department.

(g) The Department will review the Single Audit and issue a management decision letter for audit findings pertaining to the Federal award provided to the Subrecipient from the Department. If the Single Audit results in disallowed costs, those amounts must be repaid or an acceptable repayment plan must be entered into with the Department in accordance with 10 TAC §1.21, Action by Department if Outstanding Balances Exist.

(h) In evaluating a Single Audit, the Department will consider both audit findings and management responses in its review. The Department will notify Subrecipients and Affiliates (if applicable) of any Deficiencies or Findings from within the Single Audit for which the Department requires additional information or clarification and will provide a deadline by which that resolution must occur.

(i) All findings identified in the most recent Single Audit will be reported to the Executive Director during the Previous Participation review process described in Subchapter C of this Chapter. The Subrecipient may submit written comments for consideration within five business days of the Department's management decision letter.

(j) If the Subrecipient disagrees with the auditors finding(s), and the issue is related to administration of one of the Department's programs, an appeal process is available to provide an opportunity for the auditee to explain its disagreement to the Department. This is not an appeal of audit findings themselves. The Subrecipient may submit a letter of appeal and documentation to support the appeal. The Department will take the documentation and written appeal into consideration prior to issuing a management decision letter. If the Subrecipient does not disagree with the auditor's finding, no appeal to the Department is available.

(k) In accordance with 2 CFR Part 200 and the State of Texas Single Audit Circular §225, with the exception of nondiscretionary CSBG funds except as otherwise required by federal laws or regulations, the Department may suspend and cease payments under all active Contracts, or refrain from executing a new Contract for any Board awarded contracts, until the Single Audit is received. In addition, the Department may elect not to renew an entity in accordance with §1.411 of this Chapter (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code), or not amend or enter into a new Contract with a Subrecipient until receipt of the required Single Audit Certification form or the submission requirements detailed in subsection (e) of this section.

(l) In accordance with Subchapter C of this Chapter (relating to Previous Participation Reviews), if a Subrecipient applies for funding or an award from the Department, findings noted in the Single Audit and the failure to timely submit a Single Audit Certification Form or Single Audit will be reported to the Executive Director.

§1.404. Purchase and Procurement Standards.

(a) The procurement of all goods and services shall be conducted, to the maximum extent practical, in a manner providing full and open competition consistent with the standards of 2 CFR Part 200, UGMS, and TxGMS, as applicable.

(b) Subrecipients shall establish, and require its subrecipients/Subcontractors (as applicable by program regulations) to establish, written procurement procedures that when followed, result in procurements that comply with federal, state and local standards, and grant award contracts. Procedures must:

(1) include a cost or price analysis that provides for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Where appropriate, analyzing lease versus purchase alternatives, performing the proposed service in-house, and performing any other appropriate analysis to determine the most economical approach.

(2) require that solicitations for goods and services provide for a clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition, but must contain requirements that the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards. The specific features of "brand name or equal value" that bidders are required to meet must be listed in the solicitation.

(3) include a method for conducting technical evaluations of the proposals received and for selecting awardees.

(c) Documentation of procurement processes, to include but not be limited to the items in paragraphs (1) to (9) of this subsection, must be maintained by the Subrecipient in accordance with the record retention requirements of the applicable program:

- (1) rationale for the type of procurement,
- (2) cost or price analysis,
- (3) procurement package,
- (4) advertising,
- (5) responses,
- (6) selection process,
- (7) contractor selection or rejection,
- (8) certification of conflict of interest requirements being satisfied, and
- (9) evidence that the awardee is not an excluded entity in the System for Award Management (SAM).

(d) In accordance with 34 Texas Administrative Code, Part 1, Chapter 20, Subchapter D, Division 1, each Subrecipient shall make a good faith effort to utilize the state's Historically Underutilized Business Program in contracts for construction, services (including consulting and Professional Services) and commodities purchases.

(e) The State of Texas conducts procurement for many materials, goods, and appliances. Use of the State of Texas Co-Op Purchasing Program does not satisfy the requirements of 2 CFR Part 200. For more detail about how to purchase from the state contract, please contact: State of Texas Co-Op Purchasing Program, Texas Comptroller of Public Accounts. If Subrecipients choose to use the Cooperative Purchasing Program, documentation of annual fee payment is required.

(f) All vehicles considered for purchase with state or federal funds must be pre-approved by the Department. Subrecipient must present written justification for the needed vehicle. If approved such approval will be provided via written correspondence from the Department. Procurement procedures must include provisions for full and open competition and a comparison of the costs associated with leasing versus buying a vehicle. Any vehicle purchased without approval may result in disallowed costs.

(g) For procurement transactions not subject to UGMS or TxGMS, the Department has adopted a \$10,000 micropurchase and \$250,000 simplified acquisition threshold. If the federal simplified acquisition threshold changes, as a result of 2 CFR §200.88, or if it is temporarily raised because of a federal disaster declaration, the Department will publish the new amount on its website. For procurement transactions subject to TxGMS 2.0, but not 2 CFR Part 200 [UGMS or TxGMS] Subrecipient must follow a \$10,000 [~~\$3,000~~] micropurchase threshold and a \$500,000 [~~\$250,000~~] Texas Acquisition Threshold [(which is currently tied to the federal simplified acquisition threshold)]. For procurement transactions subject to UGMS or TXGMS prior to version 2.0, Subrecipient must follow a \$3,000 micropurchase threshold and a \$250,000 Texas Acquisition Threshold. Certain political subdivisions (such as cities and counties) are required under state law to follow a \$50,000 sealed bid threshold. [If the federal simplified acquisition threshold changes, as a result of 2 CFR §200.88, or if it is temporarily raised because of a federal disaster declaration, the Department will publish the new amount on its website.]

§1.407. Inventory Report.

(a) The Department requires the submission of an inventory report for all Contracts to be submitted to the Department, no later than 45 calendar days after the end of the Contract Term, or a more frequent period as reflected in the Contract. Real Property and Equipment must be inventoried and reported on the Department's required form. The form and instructions are found on the Department's website.

(b) Real property and Equipment purchased with funds under a Contract with the Department must be inventoried and reported to the Department during the Contract Term.

(c) Aggregate Supplies of over \$10,000 [(except in the case of Contracts subject to TXGMS or UGMS, in which case this limit is \$5,000)], must be reported to the Department at the end of the Contract Term using federal form SF-428, which is a standard form to collect information related to tangible personal property or other form required by the federal fund source.

(d) For certain public facility activities funded by the Community Development Block Grant, inventory requirements will be those required by HUD for real property, as further identified in the Contract.

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

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TRD-202500139

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



CHAPTER 2. ENFORCEMENT

SUBCHAPTER B. ENFORCEMENT FOR NONCOMPLIANCE WITH PROGRAM REQUIREMENTS OF CHAPTERS 6 AND 7

10 TAC §2.201, §2.202

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 2, Subchapter B, Enforcement for Noncompliance with Program Requirements of Chapters 6 and 7, §2.201, Cost Reimbursement, and §2.202 Sanctions and Contract Closeout. The purpose of the proposed repeal is to make changes to bring this rule into consistency with other more recent revisions to Department rules and processes and to improve clarity.

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

The Department has analyzed this proposed 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 has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: how to handle certain facets of enforcement actions relating to the Community Affairs and Homelessness Programs.

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

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

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

6. The repeal will not expand, limit, or repeal an existing regulation.

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 the 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 changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

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 repeal affects no other code, article, or statute.

§2.201. *Cost Reimbursement.*

§2.202. *Sanctions and Contract Closeout.*

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

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Bobby Wilkinson

Executive Director

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10 TAC §2.201, §2.202

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 2, Subchapter B, Enforcement for Noncompliance with Program Requirements of Chapters 6 and 7, §2.201, Cost Reimbursement, and §2.202 Sanctions and Contract Closeout. The purpose of the proposed repeal is to make changes to bring this rule into consistency with other more recent revisions to Department rules and processes and to improve clarity.

Tex. Gov't Code §2001.0045(b) does not apply to 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 has determined that, for the first five years the new sections would be in effect:

1. The new sections do not create or eliminate a government program but relates to changes to an existing activity: how to handle certain facets of enforcement actions relating to the Community Affairs and Homelessness Programs.
2. The new sections do 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 sections do not require additional future legislative appropriations.
4. The new sections will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new sections are not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.

6. The new sections will not expand, limit, or repeal an existing regulation.

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

8. The new sections 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 the new sections and determined that they 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 new sections do 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 sections as to their possible effects on local economies and has determined that for the first five years the new sections 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 new sections are in effect, the public benefit anticipated as a result of the new sections would be a more current and germane rule. There will not be economic costs to individuals required to comply with the new sections.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

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

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

§2.201. *Cost Reimbursement.*

(a) The Department may place on Cost Reimbursement any Contract, other than non-Discretionary CSBG. Cost Reimbursement requires Subrecipients to submit supporting documentation and back up for Expenditures or Obligations prior to the Department releasing

funds. The Department staff will indicate for each entity placed on Cost Reimbursement status whether all expenses will be reviewed or a sample, and the nature of any additional documentation that the Department will require from the Subrecipient in connection therewith. The decision by the Department to release funds in a cost review situation does not constitute final approval of the expenditure. Funds so advanced remain subject to future reviews, monitoring, and audits and in no way does the decision to release funds constrain or limit those staff performing further reviews, monitoring, or audits.

(b) In addition to the reporting requirements outlined in §6.7 of this title (relating to Subrecipient Reporting Requirements) an entity on Cost Reimbursement must submit, at a minimum, their expanded general ledger, chart of accounts, cost allocation plan, and bank reconciliations for the previous three months. Upon review of those items the Department will request submission of back up for some or all of the reported Expenditures.

(c) To the extent that the Contract has budget caps, the budget caps for each budget category will be enforced each month for which the entity is on Cost Reimbursement.

(d) An entity will be removed from Cost Reimbursement when the Department determines that identified risks or concerns have been sufficiently mitigated.

(e) An entity on Cost Reimbursement remains subject to further reviews, monitoring, and audits.

(f) The Department reserves the right to outsource some or all of its work associated with the Cost Reimbursement process to a third party.

§2.202. Sanctions and Contract Closeout.

(a) A Subrecipient that enters into a Contract with the Department to administer programs are required to follow all Legal Requirements governing these programs.

(b) If a Subrecipient fails to comply with program and Contract requirements, rules, or regulations and in the event monitoring or other reliable sources reveal material Deficiencies or Findings in performance, or if the Subrecipient fails to correct any Deficiency or Finding within the time allowed by federal or state law, the Department, in order to protect state or federal funds, may take reasonable and appropriate actions, including, but not limited to, one or more of the items described in paragraphs (1) - (6) of this subsection. In so doing, the Department will not take any action that exceeds what it is permitted to do under applicable state and federal law. The Department, as appropriate, may provide written notice of its actions and the rights of a Subrecipient to appeal.

(1) Place the Subrecipient on Cost Reimbursement as further described in §2.201 of this subchapter;

(2) With the exception of non-Discretionary CSBG, withhold all payments from the Subrecipient (both reimbursements and advances) until acceptable confirmation of compliance with the rules and regulations are received by the Department;

(3) Reduce the allocation of funds to Subrecipients as described in §2.203 of this subchapter (relating to Termination and Reduction of Funding for CSBG Eligible Entities) and as limited for LI-HEAP funds as outlined in Tex. Gov't Code, Chapter 2105;

(4) With the exception of non-Discretionary CSBG, suspend performance of the Contract or reduce funds until proof of compliance with the rules and regulations are received by the Department or a decision is made by the Department to initiate proceedings for Contract termination;

(5) If permitted by applicable state and federal statute and regulations, elect not to provide future grant funds to the Subrecipient, either prospectively in general or until appropriate actions are taken to ensure compliance; and/or

(6) Terminate the Contract. Adhering to the requirements governing each specific program administered by the Department, as needed, the Department may determine to proceed with the termination of a Contract, in whole or in part, at any time the Department establishes there is good cause for termination. Such cause may include, but is not limited to: fraud; waste; abuse; fiscal mismanagement; not providing services to clients, or failing to expend Contract funds to serve clients, as contemplated under the Contract; or other serious Findings in the Subrecipient's performance. For CSBG contract termination procedures, refer to §2.203 of this subchapter.

(c) Contract Closeout. When a Contract is terminated, or voluntarily relinquished, the procedures described in paragraphs (1) - (12) of this subsection will be implemented. The terminology of a "terminated" Subrecipient below is intended to include a Subrecipient that is voluntarily terminating the Contract.

(1) The Department will issue a termination letter to the Subrecipient no less than 30 days prior to terminating the Contract; in the case of a Subrecipient that has notified the Department in writing of voluntarily relinquishment, the Department will acknowledge that termination in writing. If the entity is an Eligible Entity the Department, following the CSBG Act, will simultaneously initiate proceedings to terminate the Eligible Entity status and the effectiveness of the contractual termination will be stayed automatically pending the outcome of those proceedings. The Department may determine to take one or more of the following actions:

(A) suspend funds immediately;

(B) allow the Subrecipient to pursue a temporary transfer to another Department-approved provider;

(C) require Cost Reimbursement for closeout proceedings; and/or

(D) provide instructions to the Subrecipient to prepare a proposed budget and written plan of action that supports the closeout of the Contract. The plan must identify the name and current job titles of Subrecipient staff that will perform the closeout and an estimated dollar amount to be incurred. The plan must identify the Certified Public Accountant or firm which will perform the Single Audit. The Department will issue an official termination date to allow all parties to calculate deadlines which are based on such date.

(2) If the Department determines that Cost Reimbursement is appropriate to accomplish closeout, the provisions in §2.201 of this subchapter will be utilized.

(3) No later than 30 calendar days after the Contract is terminated, the Subrecipient will perform a physical inventory of client files, including case management files.

(4) The terminated Subrecipient will have 30 calendar days from the date of the physical inventory to make available to the Department all current client files, which must be boxed by the county in which a household received assistance. Current and active case management files also must be inventoried, and boxed by county.

(5) Within 60 calendar days following the Subrecipient due date for preparing and boxing client files, Department staff will retrieve the client files.

(6) The terminated Subrecipient will prepare and submit no later than 30 calendar days from the date the Department retrieves

the client files, a final report containing a full accounting of all funds expended under the Contract.

(7) A final monthly expenditure report and a final monthly performance report for all remaining expenditures incurred during the Contract period must be received by the Department no later than 45 calendar days from the date the Department determines that the closeout of the program and the period of transition are complete.

(8) The Subrecipient will submit to the Department no later than 45 calendar days after the termination of the Contract, an inventory of the non-expendable personal property acquired in whole or in part with funds received under the Contract as further described in §1.407 of this title.

(9) The Department may require transfer of title to Equipment to the Department or may direct that a Subrecipient transfer such title to Equipment to another entity receiving funds from the Department. The Department will make arrangements to remove Equipment covered by this paragraph within 90 calendar days following termination of the Contract.

(10) Upon selection of a new service provider, the Department will transfer to the new provider client files and, as appropriate, Equipment.

(11) A current year Single Audit must be performed for all entities that have exceeded the federal expenditure threshold under 2 CFR Part 200, Subpart F or the State expenditure threshold under Texas Grant Management Standards, as applicable. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a Single Audit that covers the date up to the closeout of the Contract. The terminated Subrecipient must have a binding contract with a Certified Public Accounting firm on or before the termination date of the Contract. The actual costs of the Single Audit and accrued audit costs including support documentation must be submitted to the Department no later than 45 calendar days from the date the Department determines the closeout is complete.

(12) Subrecipient shall submit within 45 calendar days after the date of the closeout process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the Subrecipient. However, unless the Department authorizes an extension, the Subrecipient must abide by the 45 calendar day requirement of submitting all referenced reports and documentation to the Department.

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

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

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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



CHAPTER 5. SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

10 TAC §5.801, §5.802

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program. 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 proposed 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 proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Department's Section 8 Housing Choice Voucher Program.

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

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

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

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

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Department's Section 8 Housing Choice Voucher Program.

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

8. The proposed 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 proposed repeal and determined that the proposed 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 proposed 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 proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed 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 proposed 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 proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 24, 2025, to February 24, 2025, to receive input on the proposed repealed chapter. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email abigail.versyp@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Central Time, February 24, 2025.

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

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

§5.801. *Project Access Initiative.*

§5.802. *Waiting List.*

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

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

TRD-202500142

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



10 TAC §5.801, §5.802

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program. The purpose of the proposed new sections is to comply with federal requirements and update its procedures to include additional special purpose vouchers.

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

The Department has analyzed this proposed 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 proposed new rule would be in effect:

1. The proposed 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 Section 8 Housing Choice Voucher Programs.

2. The proposed 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 proposed new rule does not require additional future legislative appropriations.

4. The proposed 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 proposed new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The proposed new rule will not expand or repeal an existing regulation.

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

8. The proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 this rule outlines administration of an existing depart-

ment program and is purely administrative, there are no "probable" effects of the proposed 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 proposed 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 proposed 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 24, 2025, to February 24, 2025, to receive input on the proposed new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email to abigail.versyp@tdhca.texas.gov. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Central Time, February 24, 2025.

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

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

§5.801. Project Access Initiative.

(a) **Purpose.** The Project Access Program (PA Program) is a program that utilizes federal Section 8 Housing Choice Vouchers, Non-Elderly Disabled Vouchers, and Mainstream Vouchers administered by the Texas Department of Housing and Community Affairs (the Department) to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. This rule provides the parameters and eligibility standards for this program.

(b) **Definitions.**

(1) **At-Risk Applicant**--A household that has applied to the Department's Section 8 Project Access program, and exited an Institution prior to issuance of a Department Section 8 Housing Choice Voucher using an alternate short term rental assistance solution and is at risk of that short term rental assistance ending.

(2) **HHSC**--Texas Health and Human Services Commission.

(3) **HUD**--The U.S. Department of Housing and Urban Development.

(4) **Institution**--Congregate settings populated exclusively or primarily with individuals with disabilities; congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or settings that provide for daytime activities primarily with other individuals with disabilities. This definition includes but is

not limited to a nursing facility, state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD. The definition for Institution is further limited for vouchers funded with NED as further provided for in subsection (e)(2)(C) of this section. This definition does not include a prison, jail, halfway house, or other setting that persons reside in as part of a criminal proceeding.

(5) **Mainstream Vouchers (MVP)**--HUD's Mainstream Voucher Program.

(6) **Non-Elderly Disabled (NED)**--HUD's Non-Elderly Disabled Program.

(7) **Section 8**--HUD's Section 8 Housing Choice Voucher Program administered by the Department.

(c) **Regulations Governing Program.** All Section 8 Program rules and regulations, including but not limited to, criterion at 24 CFR Part 982 apply to the program.

(d) **Project Access in the Department's PHA Plan.** Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan. The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan.

(e) **Eligibility for the Project Access Program.**

(1) A household that participates in the Project Access Program must meet all Section 8 eligibility criteria, and one member of the household must meet the eligibility criteria in subparagraphs (A) and (B) of this paragraph:

(A) Must have a disability as defined in 24 CFR §5.403; and

(B) Must meet one of the criteria in clauses (i) or (ii) of this subparagraph:

(i) be a resident of an Institution at the time of voucher issuance; or

(ii) be an At-Risk Applicant that meets one of the criteria of subclauses (I) through (IV) of this clause:

(I) A current recipient of Tenant-Based Rental Assistance (TBRA) from a HOME Investment Partnership Program, whose assistance from that HOME source is within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution prior to receiving the TBRA assistance;

(II) A household with a household member who meets the criteria of an At-Risk Applicant and has lost their TBRA from a HOME Investment Partnership Program due to lack of available funding;

(III) A household that is a current recipient of rental assistance funded by HHSC, whose assistance from HHSC is within six months of expiration and is not eligible for extension or renewal, and was a previous resident of an Institution immediately prior to receiving the assistance; or

(IV) A household that is a current recipient of HHSC funded group home housing that was a previous resident of a state hospital immediately prior to receiving the group home assistance.

(2) NED and Mainstream Vouchers have additional eligibility criteria which are:

(A) The household member with the disability as defined in 24 CFR §5.403, must be 18 but under 62 years of age at the time of voucher issuance;

(B) For NED only, the head of household, spouse, co-head, or sole member, must be a person with a disability; and

(C) For NED only, the qualifying household member must not be an At-Risk Applicant as described in this subsection, must be residing in a nursing facility, Texas state psychiatric hospital, or intermediate care facility immediately prior to voucher issuance, and must also be referred by the applicable HHSC funded agency.

(f) Waiting List and Allocation of Vouchers.

(1) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of the vouchers used in the Project Access Program will be reserved for households with a household member eligible for a pilot program in partnership with the HHSC for Texas state psychiatric hospitals who otherwise meets the criteria of the Project Access Program at the time of voucher issuance.

(2) The Department will accept an application for the PA Program at any time. An applicant for the PA Program is placed on a Waiting List until a voucher becomes available. An applicant who qualifies for the Project Access HHSC Pilot Program in subsection (f)(1) of this section is placed on a Waiting List for Project Access HHSC Pilot Program, and also for the general PA Program Waiting List.

(3) The Department will select applicants off the Waiting List for the Project Access HHSC Pilot Program, and for the general PA Program waitlist. Households will first be assessed for eligibility for NED and Mainstream Vouchers. Households eligible for PA that are not eligible for NED or Mainstream may be issued a regular Section 8 Voucher.

(4) Maintaining Status on the Project Access Waiting List. A household on the Project Access waiting list may maintain their order and eligibility for a Project Access voucher if the household:

(A) Applied for the PA Program and was placed on the waiting list prior to transition out of an Institution; and

(B) Received continuous rental assistance from one of the eligible sources identified under subsection (e)(1)(B)(ii) of this section or other Department funding for rental assistance from the time of exit from an Institution until the issuance of the Project Access voucher.

§5.802. Waiting List.

(a) Purpose. The U.S. Department of Housing and Urban Development (HUD) requires that the Texas Department of Housing and Community Affairs (the Department), in its role as a public housing authority (PHA) administering a Housing Choice Voucher (HCV) program, adopt a clear approach to accepting applications, placing households on the waiting list, and selecting households from the waiting list. This rule provides the Department's policies for taking applications, managing the waiting list and selecting households for HCV assistance specifically for its 34-county jurisdictional area.

(b) Applicability.

(1) This rule is applicable only to the specific geographically limited jurisdiction of the Department. This jurisdictional area is comprised of discrete areas within counties (currently 34), but may be expanded or reduced upon action of the Board. The jurisdictional area reflected on the Department's website will serve as the jurisdictional area for the purpose of this rule.

(2) This rule does not apply to the waiting list for statewide Project Access vouchers which is addressed in §5.801 of this chapter (relating to Project Access Initiative). The rule does not address the specific waiting list process for project-based vouchers administered by the Department or for HUD Veterans Affairs Supportive Housing

(VASH) vouchers administered by the Department. Should any special purpose vouchers be received by the Department that serve specific populations or geographic areas other than the geographically limited jurisdiction of the Department referenced in paragraph (1) of this subsection, these waiting lists policies are not required to be utilized. Additionally, certain households might be accepted into the HCV program if required by 24 CFR §982.203, or at the direction of HUD, as directed by a court of law, or as part of a TDHCA conciliation agreement.

(c) Definitions and HUD Regulations.

(1) While the HUD regulations in 24 CFR Parts 5, §§903 and 982 use the word "family," in order to be consistent with other rules in this Part, this rule will use the word "household." Both words are intended to have the same meaning.

(2) Nothing in this rule is intended to conflict with federal statutes or regulations that govern the HCV assistance. If HUD mandates a process or procedure to be used for application or waiting list management that is not identified in this rule, the Department will follow HUD's direction and will amend this rule as soon as practicable.

(d) Outreach and Affirmative Marketing.

(1) HUD regulations require that all households have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program (24 CFR §982.53).

(2) The Department will conduct sufficient outreach to ensure that a sufficient number of applications will be received. HUD requires that at least 75% of the households served by the Department are extremely low-income households, and therefore the Department may need to conduct special outreach to ensure that an adequate number of extremely low-income households apply for assistance. All outreach will specify the number of households that will be accepted onto the waiting list.

(3) All outreach efforts relating to the opening of the waiting list will take place at least 7 calendar days prior to the first day of the application acceptance period, but no longer than 45 calendar days prior to the first day of the application acceptance period.

(4) Prior to performing outreach efforts for the opening of the waiting list, the Department will analyze the characteristics of the population being served by the program and the characteristics of the population as a whole in the PHA's jurisdiction to identify underserved populations. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are underrepresented in the program. Outreach materials will be provided in English, Spanish, and any other language as determined by a 4-factor analysis within each county service area.

(5) Outreach efforts will include:

(A) marketing through press releases to local newspapers, including minority newspapers;

(B) communicating with councils of governments, regional planning councils, and community action agencies, whose jurisdictions include any one of the counties in the jurisdiction of the Department, to:

(i) request that they distribute informational materials and flyers to their clients;

(ii) offer training so that they can assist households with submitting an online application; and

(iii) request that they make available a computer or web interface for clients to apply;

(C) developing partnerships with other organizations that serve the low-income population and agencies that provide services to elderly persons, people with disabilities, and people with Limited English proficiency (LEP); and

(D) clear guidance on how a person with a disability can request a reasonable accommodation for the application process.

(6) The Department will maintain a designated telephone number where interested persons can receive specific directions on how and when to apply.

(e) Application.

(1) The Department will utilize an electronic application process available in multiple languages.

(2) Any household that wishes to receive HCV assistance must apply for admission to the program.

(3) All applications must be received through the Department's online application tool. Applications received in the mail or by hand delivery will not be considered.

(4) To be placed on the waiting list only an initial pre-application is required to be submitted. However, the Department may elect to skip the pre-application and use only the full application. Only when an applicant is being pulled from the waiting list to be offered a voucher will a full application submission be required. Form HUD-92006, Supplement to Application for Federally Assisted Housing, must be submitted as an attachment to the Department's full application. A household must submit the completed pre-application or application to ensure that the Department receives the information needed to determine the household's eligibility.

(5) Application Acceptance Period. Applications will be accepted for a 14-calendar day period.

(6) Individuals who have a disability which would prevent them from making an application online may call the Department to make special arrangements so that Department staff can complete their application in time to be included in the lottery process. A Telecommunications Device for the Deaf (TDD) is available for the deaf.

(f) Placement on Waiting List.

(1) No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list (24 CFR §982.202(c)).

(2) Placement on the waiting list does not indicate that the household is, in fact, eligible for assistance. A final determination of eligibility will be made when the household is selected from the waiting list.

(3) Creation of Waiting List. The Department will establish a single waiting list for its jurisdictional area. The Department will announce in its outreach documents the total number of households it will place on its waiting list. Except for households on a project-based waiting list, all households that are on a special purpose waiting list at the beginning of the application acceptance period and that wish to live in the Department's jurisdictional area will be placed first on the jurisdictional waiting list based on the time they have been on the special purpose waiting list (i.e. oldest time on any special purpose waiting list gets assigned the first number). All other applications received during the application acceptance period will be assigned a number using a random number generator, called a lottery process. These applications will then be placed in numerical order according to that assigned number. The Department will then place applicants on the waiting list up to the number of households the Department announced it would accept on its waiting list in rising numerical order (inclusive of the

households automatically placed on the jurisdictional waiting list because they were on a special purpose waiting list at the beginning of the application acceptance period). All other applications not within the number being accepted on the wait list will not be placed on the waiting list. All applications submitted will be notified in writing of having been added to the waiting list and their number ranking, or that they were not placed on the waiting list.

(4) Ineligible for Placement on the Waiting List. If the Department can determine from the information provided that a household is ineligible, the household will not be placed on the waiting list or be able to participate in the lottery process described in this section for placement on the waiting list. Where a household is determined to be ineligible, the Department will send written notification of the ineligibility determination within 14 calendar days of receiving the complete application from the Department at the Department headquarters (24 CFR §982.201(f)). The notice will specify the reasons for ineligibility, and will inform the household of its right to request an informal review and explain the process for doing so.

(5) Applicants with Special Purpose Characteristics. The application for the jurisdictional waiting list will ask if the household qualifies for any of the open special purpose waiting lists, including Project Access, that the Department maintains, except for a project-based waiting list or a waiting list in which a household may not directly apply. The applicant household, if qualified, may be added to one or more special purpose waiting lists at the end of the application acceptance period, but this will not impact their lottery number for the jurisdictional waiting list.

(6) If the Department permanently absorbs vouchers from another housing authority and is reassigned the contract by HUD, the waiting list from the other housing authority will be maintained, in its existing order, but will not be further expanded. That waiting list will be treated as separate from the rest of the Department's waiting list until it has been depleted. If after absorption of that area, the Department opens its jurisdictional waiting list, applicants located in the absorbed area will be eligible to also apply to this waiting list.

(g) Selection of Households from the Waiting List.

(1) The actual order in which households are selected from the waiting list can be affected if a household has certain characteristics designated by HUD or the Department to receive preferential treatment, such as being impacted by a particular declared disaster. Funding earmarked exclusively for households with particular characteristics, such as eligibility for Project Access or FYI, may also alter the order in which households are served. HUD requires that extremely low-income (ELI) households make up at least 75% of the households admitted to the HCV program during the Department's fiscal year. ELI households are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the Department may skip non-ELI household on the waiting list in order to select an ELI household. (24 CFR §982.201(b)(2)). The skipped non-ELI household will retain its position on the waiting list. Low-income households admitted to the program that are "continuously assisted" under the 1937 Housing Act (24 CFR 982.4(b)), as well as low-income or moderate-income households admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes (24 CFR §982.201(b)(2)(v)).

(2) When a voucher becomes available, the Department will select the household at the top of the waiting list. The order of admission from the waiting list IS NOT based on household size, or on the household unit size for which the household qualifies under the occupancy guidelines. If the Department does not have sufficient funds to

subsidize the household unit size of the household at the top of the waiting list, the Department WILL NOT skip the top household to admit an applicant with a smaller household unit size. Instead, the household at the top of the waiting list will be admitted when sufficient funds are available. (24 CFR §982.204(d) and(e)).

(3) When a household comes to the top of the waiting list and the Department is ready to issue a voucher, the household will be notified and required to complete the full application. The household will also be required to complete a Personal Declaration Form. A household that does not respond to the request for full application more than three times will be sent a notice consistent with program policies removing them from the waiting list.

(4) A household's decision to apply for, receive, or refuse non-PHA federal, state, or local housing assistance will not affect the household's placement on the jurisdictional waiting list, or any preferences for which the household may qualify, except as specified in §5.801 of this chapter.

(h) Reporting Changes in Household Circumstances While On the Waiting List. While a household is on the waiting list, the household must immediately inform the Department of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. Failure to provide this information may prevent the Department from being able to reach a household if a voucher becomes available and may result in removal from the waiting list.

(i) Updating of the Waiting List and Removal from the Waiting List.

(1) To ensure that the Department's waiting list reflects the most current applicant information, the waiting list may be updated no less than every twelve months.

(2) Process.

(A) To update the waiting list, the Department will send an update request to each household on the waiting list to determine whether the household continues to be interested in, and qualifies for, the program. This update request will be sent to the last address on record for the household and to any email address provided by the household.

(B) The update request will provide a deadline by which the household must respond, which will be approximately 10 days from the date the letter is sent and will state that failure to respond will result in the applicant's name being removed from the waiting list.

(C) The household's response to the Department must be in writing and may be delivered, by mail, or by email. Responses should be postmarked or received by the Department no later than the deadline specified in the Department's letter.

(D) If the household fails to respond by the specified deadline, the household will be removed from the waiting list without further notice. If the notice is returned to the Department by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice. If the notice is returned to the Department by the post office with a forwarding address, the notice will be re-sent to the address indicated. The household will have a new deadline specified by which to respond.

(3) Removal from the Waiting List.

(A) If a household is removed from the waiting list for failure to respond, the Department may reinstate the household to their former position on the waiting list if it determines that the lack of response was due to Department error, or to circumstances beyond the

household's control. Greater flexibility in this criterion may be provided as a reasonable accommodation.

(B) If a household is removed from the waiting list because they have failed to respond to the Department's request for more information/updates or the Department has determined that they are no longer eligible for assistance, a notice will be sent to the household's address of record as well as to any alternate address or email address provided on the initial application. The notice will state the reasons the household was removed from the waiting list and will inform the household that they have 10 calendar days from the date of the written correspondence to request an informal review of the Department's decision (24 CFR §982.201(f)).

(C) If a household accepts a tenant-based public housing voucher from the Department, the household will be removed from all tenant-based public housing Department waiting lists.

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

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

TRD-202500143

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: March 2, 2025

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



TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

SUBCHAPTER A. OFFICIALS

DIVISION 3. DUTIES OF OTHER OFFICIALS

16 TAC §313.61

The Texas Racing Commission (TXRC) proposes rule amendments in Texas Administrative Code, Title 16, Part 8, Chapter 313, §313.61. Horsemen's Bookkeeper. The purpose of this rule amendment is to strengthen the ability of the Commission to track and audit funds that are managed by the Horsemen's Bookkeeper.

A. ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

There are no anticipated economic costs to persons required to comply with the proposed rule amendments. There is no effect on local economy for the first five years that the proposed rule amendments will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

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

Amy F. Cook, Executive Director, has determined that the proposed rule amendment will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is not required.

C. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE §2001.0221.

Pursuant to Texas Government Code §2001.0221, Texas Racing Commission provides the following government growth impact statement for the proposed rule amendments. For each year of the first five years that the proposed rule amendments will be in effect, the Texas Racing Commission has determined the following:

The proposed rule amendments will not create or eliminate a government program;

Implementation of the proposed rule amendments will not require the creation of new employee positions or the elimination of existing employee positions;

implementation of the proposed rule amendments will not require an increase or decrease in future legislative appropriations to the agency;

the proposed rule amendments will not require an increase or decrease in fees paid to the agency;

the proposed rule amendments are new rules and therefore create new regulations;

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

the proposed rule amendments will not increase or decrease the number of individuals subject to the rules' applicability; and

the proposed rule amendments will not positively or adversely affect the state's economy.

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE §2007.043.

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

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code §2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to improve the positive economic impact, health, and safety of licensed horse racing in Texas by reducing the impact of unlicensed racing.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule amendment.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under §2026.001 of the Texas Occupations Code.

REQUESTS FOR PUBLIC COMMENTS

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed under Texas Occupations Code §2021.

CROSS REFERENCE TO STATUTE. Texas Occupations Code §2021.

§313.61. *Horsemen's Bookkeeper.*

(a) Designation of horsemen's bookkeeper.

(1) An association shall ensure a horsemen's bookkeeper is available to maintain the horsemen's account.

(2) The executive secretary may designate an entity unrelated to the association to serve as the horsemen's bookkeeper. To be designated as the horsemen's bookkeeper, an entity must annually submit a plan of operation acceptable to the executive secretary that demonstrates the entity's ability to perform the duties of the horsemen's bookkeeper.

(3) A designation as horsemen's bookkeeper does not constitute a license, but the executive secretary may require any individual involved with a designated entity to receive a license.

(4) If the executive secretary approves an association's request to designate an entity as horsemen's bookkeeper, the association is relieved of responsibility for providing a horsemen's bookkeeper and shall cooperate fully with the horsemen's bookkeeper designated by the executive secretary.

(b) Revocation of designation.

(1) A designation as the horsemen's bookkeeper continues in effect until revoked by the executive secretary.

(2) The executive secretary may revoke a designation as the horsemen's bookkeeper if the executive secretary determines the designated entity has:

(A) failed to comply with the Act, or the plan of operation, in a manner that indicates malfeasance as opposed to mere mistake;

(B) failed to maintain accurate and reliable records;

(C) misappropriated or mishandled funds in its possession or control;

(D) failed to correct within a reasonable time any deficiency in operations identified by the executive secretary in writing; or

(E) had its authority to act as a horsemen's bookkeeper revoked in another jurisdiction.

(3) Before revoking a designation as horsemen's bookkeeper, the executive secretary must issue a notice of proposed revocation which specifically describes the grounds for revocation. No later than 30 days after receiving a notice of proposed revocation, the entity may file a written response to the allegations with the executive secretary.

(4) The executive secretary may not revoke a designation without making adequate provision for a successor horsemen's bookkeeper.

(c) Operations of horsemen's bookkeeper.

(1) Each owner engaged in racing must open and maintain an account with the horsemen's bookkeeper. The horsemen's bookkeeper may permit other individuals to open and maintain an account with the horsemen's bookkeeper, subject to the approval of the executive secretary. The aggregate of all such accounts is the horsemen's account.

(2) The horsemen's bookkeeper shall keep accurate records of the horsemen's account and the constituent accounts. The horsemen's bookkeeper shall:

(A) promptly credit each account with all earnings, awards, and deposits;

(B) deduct or disburse all payments as directed by the owner or authorized agent;

(C) render periodic statements of each constituent account; and

(D) perform all other duties and functions as may be required by the Act or the Rules.

(d) Audit. The executive secretary may at any time inspect, review or audit the records and performance of the horsemen's bookkeeper. Not later than June 15 of each year beginning in 2026, the horsemen's bookkeeper shall submit to the Commission audited financial statements. The funds received and/or expended by the horsemen's bookkeeper from the horse industry escrow account must be included in the audit. An auditor's statement must be included as part of the annual audit attesting to the proper use of the funds received from the horse industry escrow account by the horsemen's bookkeeper.

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

Filed with the Office of the Secretary of State on January 15, 2025.

TRD-202500118

Amy F. Cook
Executive Director

Texas Racing Commission

Earliest possible date of adoption: March 2, 2025

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



CHAPTER 319. VETERINARY PRACTICES
AND DRUG TESTING
SUBCHAPTER B. TREATMENT OF HORSES
16 TAC §319.110

The Texas Racing Commission (TXRC) proposes amendments to Texas Administrative Code, Title 16, Part 8, Chapter 319, §319.110 Requirements to Enter Association Grounds. The purpose of this rule amendment is to require a negative Equine Infectious Anemia (EIA) test within 180 days prior to entry into the stable gate of an association. The rule change also authorizes the Executive Director to require other tests as need arises.

A. ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

There are no anticipated economic costs to persons required to comply with the proposed rule amendments. There is no effect on local economy for the first five years that the proposed rule amendments will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

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

Amy F. Cook, Executive Director, has determined that the proposed rule amendment will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is not required.

C. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE §2001.0221.

Pursuant to Texas Government Code §2001.0221, Texas Racing Commission provides the following government growth impact statement for the proposed rule amendments. For each year of the first five years that the proposed rule amendments will be in effect, the Texas Racing Commission has determined the following:

(1) The proposed rule amendments will not create or eliminate a government program;

(2) Implementation of the proposed rule amendments will not require the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed rule amendments will not require an increase or decrease in future legislative appropriations to the agency;

(4) the proposed rule amendments will not require an increase or decrease in fees paid to the agency;

(5) the proposed rule amendments are new rules and therefore create new regulations;

(6) the proposed rule amendments will not expand, limit, or repeal an existing regulation;

(7) the proposed rule amendments will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the proposed rule amendments will not positively or adversely affect the state's economy.

D. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEXAS GOVERNMENT CODE §2007.043.

Amy F. Cook, Executive Director, has determined that no private real property interests are affected by the proposed rule amendments, and the proposed rule amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of gov-

ernment action. As a result, the proposed rule amendments do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

E. LOCAL EMPLOYMENT IMPACT STATEMENT REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(6).

Amy F. Cook, Executive Director, has determined that the proposed rule amendments are not expected to have any fiscal implications for state or local government as outlined in Texas Government Code §2001.024(A)(6).

F. COST-BENEFIT ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(5).

Amy F. Cook, Executive Director has determined that the proposed rule amendments are expected to improve the positive economic impact, health, and safety of licensed horse racing in Texas by reducing the impact of unlicensed racing.

G. FISCAL NOTE ANALYSIS REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(4).

Amy F. Cook, Executive Director has determined that no significant fiscal impact is associated with the proposed rule amendment.

H. LEGAL REVIEW REQUIRED BY TEXAS GOVERNMENT CODE §2001.024(A)(3).

Amy F. Cook, Executive Director certifies that a legal review has been completed and the proposal is within agency's legal authority to adopt under §2026.001 of the Texas Occupations Code.

REQUESTS FOR PUBLIC COMMENTS

Comments on the proposal may be submitted to the Texas Racing Commission Executive Director, Amy F. Cook, via webpage comment form at <https://www.txrc.texas.gov/texas-rules-of-racing> or through the agency customer service desk at customer.service@txrc.texas.gov, or by calling the customer service phone number at (512) 833-6699. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed under Texas Occupations Code §2026.001.

CROSS REFERENCE TO STATUTE. Texas Occupations Code §2026.001.

§319.110. Requirements to Enter Association Grounds.

To be admitted on to an association's grounds, a horse must be accompanied by paperwork showing ownership, a current certificate of veterinary inspection, including a negative Equine Infectious Anemia (EIA) test within the 180 days prior to entrance to an association grounds, and meet any other health inspection requirements established by federal or state authorities. The Executive Director of the Commission may require a certificate of veterinary inspection or a negative EIA test within a shorter amount of time and may require test results for other diseases based on operational requirements. A copy of the above documents must be kept with the horse identifier through the duration of time the horse is on association property. [the Texas Animal Health Commission.]

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

Filed with the Office of the Secretary of State on January 15, 2025.

TRD-202500119

Amy F. Cook

Executive Director

Texas Racing Commission

Earliest possible date of adoption: March 2, 2025

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



TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §501.52

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.52 concerning Definitions.

Background, Justification and Summary

The amendment deletes the reference to a section of the Board's rules that no longer exists. A reference is not needed.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will eliminate confusion for those seeking to locate the referenced rule.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase

or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.52. Definitions.

The following words and terms, when used in title 22, part 22 of the Texas Administrative Code relating to the Texas State Board of Public Accountancy, shall have the following meanings, unless the context clearly indicates otherwise. The masculine shall be construed to include the feminine or neuter and vice versa, and the singular shall be construed to include the plural and vice versa.

(1) "Act" means the Public Accountancy Act, Chapter 901, Occupations Code;

(2) "Advertisement" means a message which is transmitted to persons by, or at the direction of, a person and which has reference to the availability of the person to perform Professional Accounting Services;

(3) "Affiliated entity" means an entity controlling or being controlled by or under common control with another entity, directly or indirectly, through one or more intermediaries;

(4) "Attest Service" means:

(A) an audit or other engagement required by the board to be performed in accordance with the auditing standards adopted by

the AICPA, PCAOB, or another national or international accountancy organization recognized by the board;

(B) a review or compilation required by the board to be performed in accordance with standards for accounting and review services adopted by the AICPA or another national or international accountancy organization recognized by the board;

(C) an engagement required by the board to be performed in accordance with standards for attestation engagements adopted by the AICPA or another national or international accountancy organization recognized by the board;

(D) any other assurance service required by the board to be performed in accordance with professional standards adopted by the AICPA or another national or international accountancy organization recognized by the board;

(5) "Board" means the Texas State Board of Public Accountancy;

(6) "Charitable Organization" means an organization which has been granted tax-exempt status under the Internal Revenue Code of 1986, §501(c), as amended;

(7) "Client" means a party who enters into an agreement with a license holder or a license holder's employer to receive a professional accounting service or professional accounting work;

(8) "Client Practice of Public Accountancy" is the offer to perform or the performance by a person for a client or a potential client of professional accounting services or professional accounting work, and also includes:

(A) the advice or recommendations in connection with the sale or offer for sale of products (including the design and implementation of computer software), when the advice or recommendations routinely require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting; and

(B) the performance of litigation support services;

(9) "Commission" means compensation for recommending or referring any product or service to be supplied by another party;

(10) "Contingent fee" means a fee for any service where no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. However, a person's non-Contingent fees may vary depending, for example, on the complexity of the services rendered. Fees are not contingent if they are fixed by courts or governmental entities acting in a judicial or regulatory capacity, or in tax matters if determined based on the results of judicial proceedings or the findings of governmental agencies acting in a judicial or regulatory capacity, or if there is a reasonable expectation of substantive review by a taxing authority;

(11) "Financial Statements" means a presentation of financial data, including accompanying notes, derived from accounting records and intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time, in accordance with generally accepted accounting principles or other comprehensive basis of accounting. Incidental financial data to support recommendations to a client or in documents for which the reporting is governed by Statements on Standards for Attestation Engagements and tax returns and supporting schedules do not constitute financial statements for the purposes of this definition;

(12) "Firm" means a sole proprietorship, partnership, limited liability partnership, limited liability company, corporation or other

legally recognized business entity engaged in the practice of public accountancy;

(13) "Good standing" means compliance by a licensee with the board's licensing rules, including the mandatory continuing education requirements, Peer Review, and payment of the annual license fee, and any penalties and other costs attached thereto. In the case of board-imposed disciplinary or administrative sanctions, the person must be in compliance with all the provisions of the board order to be considered in good standing;

(14) "Licensee" means the holder of a license issued by the board to a person pursuant to the Act, or pursuant to provisions of a prior Act;

(15) "Out of state practitioner and out of state firm" means a person licensed in another jurisdiction practicing in Texas pursuant to a practice privilege as provided for in §901.461 and §901.462 of the Act (relating to Practice by Certain Out-of-State Firms and Practice by Out-of-State Practitioner with Substantially Equivalent Qualifications);

(16) "Peer Review," "Quality Review" or "Compliance Assurance" means the study, appraisal, or review of the professional accounting work of a public accountancy firm that performs attest services by a certificate holder who is not affiliated with the firm;

(17) "Person" means an individual, sole proprietorship, partnership, limited liability partnership, limited liability company, corporation or other legally recognized business entity that provides or offers to provide professional accounting services or professional accounting work as defined in paragraph (22) of this section;

(18) "Principal office" means the location specified by the client as the address to which a client practice of public accounting service [described in §517.1(a)(2) of this title (relating to Practice by Certain Out of State Firms)] is directed and is synonymous with Home Office where it appears in the Act;

(19) "Practice unit" means an office of a firm required to be licensed with the board for the purpose of the client practice of public accountancy;

(20) "Practice privilege" means the privilege for an out-of-state person to provide certain Professional Accounting Services or Professional Accounting Work in Texas to the extent permitted under Chapter 517 of this title (relating to Practice by Certain Out of State Firms and Individuals);

(21) "Preparation engagement" means the preparation of financial statements that do not include an audit, review or a compilation report on those financial statements in accordance with Standards for Accounting and Review Services adopted by the AICPA;

(22) "Professional Accounting Services" or "professional accounting work" means services or work that requires the specialized knowledge or skills associated with certified public accountants, including but not limited to:

- (A) issuing reports on financial statement(s);
- (B) preparation engagements pursuant to SSARS;
- (C) providing management or financial advisory or consulting services;
- (D) preparing tax returns;
- (E) providing advice in tax matters;
- (F) providing forensic accounting services;
- (G) providing internal auditing services;

(H) accounting, auditing and other assurance services;

(I) providing litigation support services; and

(J) recommending the sale of a product if the recommendation requires or implies accounting or auditing skills.

(23) "Report" means an opinion, report, or other document, prepared in connection with an attest service that states or implies assurance as to the reliability of financial statement(s); and includes or is accompanied by a statement or implication that the person issuing the opinion, report, or other document has special knowledge or competence in accounting or auditing. A statement or implication of assurance as to the reliability of a financial statement or as to the special knowledge or competence of the person issuing the opinion, report, or other document includes any form of language that is conventionally understood to constitute such a statement or implication. A statement or implication of special knowledge or competence in accounting or auditing may arise from the use by the issuer of the opinion, report, or other document of a name or title indicating that the person is an accountant or auditor; or the language of the opinion, report, or other document itself.

(24) Interpretive Comment: The practice of public accountancy is defined in §901.003 of the Act (relating to the Practice of Public Accountancy).

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

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

TRD-202500122

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



22 TAC §501.53

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.53 concerning Applicability of Rules of Professional Conduct.

Background, Justification and Summary

Licensees practicing through a practice privilege in this state must comply with all of the Board's rules of professional conduct. In addition, non-attest financials are not issued in accordance with accounting principles as they do not express an opinion and licensees not in the client practice of public accounting may issue non-attest transmittals without a firm license.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will: 1) make it clear that licensees practicing through a practice privilege in this

state must comply with all of the Board's Rules of Professional Conduct; 2) eliminate the requirement that non-attest financial statements must comply with accounting principles; and 3) make it clear that licensees not in the client practice of public accounting may issue non-attest transmittals without a firm license.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state

will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.53. *Applicability of Rules of Professional Conduct.*

(a) All of the rules of professional conduct shall apply to and must be observed by a certificate or registration holder and any individual who holds a certificate of license as a CPA in another state and whose principal place of business is not in this state but offers or renders professional accounting services in this state pursuant to §901.462 of the Act (relating to Practice by Out-Of-State Practitioner with Substantially Equivalent Qualifications) engaged in the client practice of public accountancy.

~~[(b) No certificate or registration holder shall issue, or otherwise be associated with, financial statements that do not conform to the accounting principles described in §501.61 of this chapter (relating to Accounting Principles).]~~

~~[(b) [(e)] Notwithstanding subsection (a) of this section, the [The] following rules of professional conduct shall be required of all licensees, including licensees practicing pursuant to §901.462 of the Act and certificate or registration holders [apply to and be required to be observed by certificate or registration holders when] not employed in the client practice of public accountancy:~~

~~(1) §501.63(b) of this chapter (relating to Reporting Standards);~~

~~(2) [(4)] §501.73 of this chapter (relating to Integrity and Objectivity) when in an employer/employee relationship;~~

~~(3) [(2)] §501.74 of this chapter (relating to Competence);~~

~~(4) [(3)] §501.77 of this chapter (relating to Acting through Others);~~

~~(5) [(4)] §501.78 of this chapter (relating to Withdrawal or Resignation);~~

~~(6) [(5)] §501.90 of this chapter (relating to Discreditable Acts);~~

~~(7) [(6)] §501.91 of this chapter (relating to Reportable Events);~~

~~(8) [(7)] §501.92 of this chapter (relating to Frivolous Complaints);~~

~~(9) [(8)] §501.93 of this chapter (relating to Responses); and~~

~~(10) [(9)] §501.94 of this chapter (relating to Mandatory Continuing Professional Education).~~

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

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

TRD-202500123

J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: March 2, 2025
For further information, please call: (512) 305-7842



22 TAC §501.55

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.55 concerning Definition of Acronyms.

Background, Justification and Summary

Government Auditing Standards is more accurately referred to as Generally Accepted Government Auditing Standards and that is added to the current acronym and TSBPA is added to the acronym in our rules.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will clarify that the correct reference to Government Auditing Standards is more properly referenced as Generally Accepted, and so that the public will understand that TSBPA represents in the Board rules the name of this agency which is Texas State Board of Public Accountancy.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.55. Definition of Acronyms.

The following acronyms, when used in Title 22, Part 22 of the Texas Administrative Code relating to the Texas State Board of Public Accountancy, shall have the following meanings:

- (1) "AICPA" means the American Institute of Certified Public Accountants;
- (2) "CPA" means Certified Public Accountant;
- (3) "CPE" means continuing professional education;
- (4) "FASB" means the Financial Accounting Standards Board;
- (5) "GAAP" means Generally Accepted Accounting Principles;
- (6) "GAAS" means Generally Accepted Auditing Standards;
- (7) "GAGAS" means Generally Accepted Government Auditing Standards;
- (8) "GASB" means the Governmental Accounting Standards Board;
- (9) "IASB" means the International Accounting Standards Board;

- Board;
- (10) "IESB" means the International Ethics Standards Board;
- (11) "IFRB" means International Financial Reporting Bulletins;
- (12) "IFRS" means International Financial Reporting Standards;
- (13) "IRS" means the Internal Revenue Service;
- (14) "NASBA" means the National Association of State Boards of Accountancy;
- (15) "NPRC" means the National Peer Review Committee;
- (16) "PCAOB" means the Public Company Accounting Oversight Board;
- (17) "SAS" means Statements on Auditing Standards;
- (18) "SEC" means the United States Securities and Exchange Commission;
- (19) "SOAH" means the State Office of Administrative Hearings;
- (20) "SSAE" means Statements on Standards for Attestation Engagements;
- (21) "SSARS" means Statements on Standards for Accounting and Review Services;
- (22) "SSCS" means Statements on Standards for Consulting Services;
- (23) "SSTS" means Statements on Standards for Tax Services;
- (24) "TSBPA" means Texas State Board of Public Accountancy;
- (25) [(24)] "TXCPA" means the Texas Society of Certified Public Accountants;
- (26) [(25)] "UAA" means the Uniform Accountancy Act;
- (27) [(26)] "UCPAE" means the Uniform Certified Public Accountant Examination;
- (28) [(27)] "U.S. GAO" means the United States Government Accountability Office; and
- (29) [(28)] "U.S. IQAB" means the United States International Qualifications Appraisal Board.

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

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

TRD-202500124

J. Randel (Jerry) Hill
General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



SUBCHAPTER B. PROFESSIONAL STANDARDS

22 TAC §501.60

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.60 concerning Auditing Standards.

Background, Justification and Summary

Auditing standards of the Public Company Accounting Oversight Board (PCAOB) also includes PCAOB rules.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will make it clear that this agency expects licensees to comply with PCAOB rules or be subject to disciplinary action.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his

attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.60. Auditing Standards.

A person shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an auditor with respect to such financial statements, unless he has complied with GAAS. Each of the following are considered to be sources of GAAS:

- (1) SAS issued by the AICPA;
- (2) auditing standards included in Standards for Audit of Government Organizations, Programs, Activities and Functions issued by the U.S. GAO;
- (3) auditing and related professional practice standards and rules to be used by registered public accounting firms issued by the PCAOB; as well as,
- (4) other pronouncements having similar generally recognized authority.

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

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

TRD-202500125

J. Randel (Jerry) Hill
General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



22 TAC §501.63

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.63 concerning Reporting Standards.

Background, Justification and Summary

Peer review does not apply to preparation engagements even though it is a very limited attest service.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will make it clear that preparation engagements are not subject to peer review.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small busi-

nesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.63. Reporting Standards.

(a) A licensee in the client practice of public accountancy must comply with SSARS or another similar standard of a national or international accountancy organization recognized by the board when transmitting a client's financial statements to the client or a third party.

(b) A licensee not employed in the client practice of public accountancy may prepare his employer's financial statements and may issue non-attest transmittals or information regarding non-attest transmittals without a firm license, provided those transmittals do not purport to be in compliance with SSARS or any other similar standard of a national or international accountancy organization recognized by the board.

(c) A licensee performing a preparation engagement is not required to enroll in peer review.

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

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

22 TAC §501.79

The Texas State Board of Public Accountancy (Board) proposes new rule §501.79 concerning Transfer or Return of Files Resulting from the Sale, Transfer, Discontinuation or Acquisition of Practice.

Background, Justification and Summary

A licensee that sells its' client's files must notify the client of the change in firms when the licensee continues to practice with the new firm. A licensee who sell his firm's client files must obtain

permission of the client prior to the transfer of the client files when the licensee does not work with the new firm as an employee or owner. A licensee that discontinues his practice must maintain the confidentiality of the client files and arrange for the return of the client files to the client when requested.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule will help the public understand that the licensee is responsible for communicating the closing of the firm and the protection of the confidentiality of the firm's files, obtaining the client's permission prior to the transfer of the firm's files to a new firm when the licensee transfers the firm's files to the licensee's new firm.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his

attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

§501.79. Transfer or Return of Files Resulting from the Sale, Transfer, Discontinuation or Acquisition of Practice.

(a) A licensee or licensee's firm that sells or transfers all or part of the licensee's practice to another person, firm, or entity, and is employed by the firm or retains ownership in the firm, is required to notify the clients of the change in ownership within 30 days of the sale or transfer.

(b) A licensee or licensee's firm that sells or transfers all or part of the licensee's practice to another person, firm, or entity and will no longer be employed by or retain any ownership in the practice is required to:

(1) submit a written request to each client subject to the sale or transfer, requesting the client's consent to transfer its files to the successor firm. The licensee should not transfer any client files to the successor firm until the client's consent is obtained. The licensee is required to retain evidence of consent for at least five years from the date of sale or transfer of the firm;

(2) arrange to return any client records, not transferred to the new firm, unless the licensee and client agree to some other arrangement; and

(3) retain in a confidential manner, client files where the licensee is unable to contact the client, for at least five years from the sale or transfer. When practicing before the IRS or other taxing authorities or regulatory bodies, licensees should ensure compliance with the most restrictive retention requirements.

(c) A licensee who discontinues his or her practice but does not sell or transfer the practice to a successor firm, is required within 30 days of the discontinuation of the practice to:

(1) Notify each client in writing of the discontinuation of the practice. The licensee must retain evidence of notification made to clients for at least five years. The licensee is not required to provide notification to former clients of the firm.

(2) Return any client records that the licensee is required to provide to the client, unless the licensee and client agree to some other arrangement.

(3) Retain in a confidential manner, client files where the licensee is unable to contact the client, for at least five years from the discontinuation of the practice. When practicing before the IRS or other taxing authorities or regulatory bodies, licensees should ensure compliance with any retention requirements that are more restrictive.

(d) A licensee who acquires all or part of a practice from another person, firm, or entity (predecessor firm) should be satisfied that all clients of the predecessor firm subject to the acquisition have consented to the licensee's continuation of professional services and retention of any client files or records the successor firm retains.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842

SUBCHAPTER D. RESPONSIBILITIES TO THE PUBLIC

22 TAC §501.81

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.81 concerning Firm Licensing.

Background, Justification and Summary

A licensee may provide non-attest accounting services through a non-licensed firm and use the CPA credential in association with the firm but must include the notice that the firm is not a CPA firm and the firm is not regulated by Board each time the licensee uses the CPA credential.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will make clear of the licensee's responsibility to disclose to the public when they are providing non-attest accounting services through a non-CPA firm not regulated by the Board.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.81. Firm Licensing.

(a) A firm, may not provide or offer to provide attest services or use the title "CPA," "CPAs," "CPA Firm," "Certified Public Accountants," "Certified Public Accounting Firm," or "Auditing Firm" or any variation of those titles unless the firm holds a firm license issued by

the board or qualifies under a practice privilege. A firm license is not valid for any date or for any period prior to the date it is issued by the board and it automatically expires and is no longer valid after the end of the period for which it is issued. A firm license does not expire when the application for license renewal is received by the board prior to its expiration date. An expiration date for a firm license may be extended by the board, in its sole discretion, upon a demonstration of extenuating circumstances that prevented the firm from timely applying for or renewing a firm license.

(b) A firm is required to hold a license issued by the board if the firm establishes or maintains an office in this state.

(c) Each advertisement or written promotional statement that refers to a CPA's designation and his or her association with an unlicensed entity in the client practice of public accountancy must include the disclaimer: "This firm is not a CPA firm and these services are not regulated by the Texas State Board of Public Accountancy." The disclaimer must be included in conspicuous proximity to the name of the unlicensed entity and be printed in a size at least equal to, and a type not less bold than that contained in the body of the advertisement or written statement. If the advertisement is in audio format only, the disclaimer shall be clearly declared at the conclusion of each such presentation.

(d) The requirements of subsection (c) of this section do not apply with regard to a person performing services:

(1) as a licensed attorney at law of this state while in the practice of law or as an employee of a licensed attorney when acting within the scope of the attorney's practice of law;

(2) as an employee, officer, or director of a federally-insured depository institution, when lawfully acting within the scope of the legally permitted activities of the institution's trust department; or

(3) pursuant to a practice privilege.

(e) On the determination by the board that a person has practiced without a license or through an unlicensed firm in violation of subsection (c) of this section, the person's certificate shall be subject to revocation and may not be reinstated for at least 12 months from the date of the revocation.

(f) Interpretive Comment: A person who is employed by an unlicensed firm that offers services that fall within the definitions of the client practice of public accountancy as defined in §501.52(8) and (22) of this chapter (relating to Definitions) and §901.003 of the Act (relating to Practice of Public Accountancy) must comply with the disclaimer requirement found in subsection (c) of this section.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



SUBCHAPTER E. RESPONSIBILITIES TO THE BOARD/PROFESSION

22 TAC §501.90

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.90 concerning Discreditable Acts.

Background, Justification and Summary

The current rules identify acts that the Board may consider discreditable and subject to disciplinary action. The rule also states that there could be additional acts that the Board may find discreditable. The rule is being revised to only include acts that it has identified. The practice has been to hold licensees accountable for only those acts identified. The licensee should have the right to know what behavior the Board believes is unacceptable and thus sanctionable.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will be greater clarity for licensees to know what may be considered a discreditable act.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Ac-

countancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.90. *Discreditable Acts.*

A discreditable act evidences a lack of integrity and reflects adversely on that person's fitness to engage in the practice of public accountancy. [A person shall not commit any act that reflects adversely on that person's fitness to engage in the practice of public accountancy.] The [A discreditable act includes but is not limited to and the] board may discipline a person for the following discreditable acts:

- (1) fraud or deceit in obtaining a certificate as a CPA or in obtaining registration under the Act or in obtaining a license to practice public accounting;
- (2) dishonesty, fraud or gross negligence in the practice of public accountancy;
- (3) violation of any of the provisions of Subchapter J or §901.458 of the Act (relating to Loss of Independence) applicable to a person certified or registered by the board;
- (4) final conviction of a felony or imposition of deferred adjudication or community supervision in connection with a criminal prosecution of a felony under the laws of any state or the United States;
- (5) final conviction of any crime or imposition of deferred adjudication or community supervision in connection with a criminal prosecution, an element of which is dishonesty or fraud under the laws of any state or the United States, a criminal prosecution for a crime of moral turpitude, a criminal prosecution involving alcohol abuse or controlled substances, or a criminal prosecution for a crime involving physical harm or the threat of physical harm;
- (6) a revocation, cancellation, placement on probation, limitation on the scope of practice, or suspension by another state, or a refusal of renewal by another state, of the authority issued by that state to the person, or to the person's partner, member, or shareholder,

to engage in the practice of public accountancy for a reason other than the failure to pay the appropriate authorization fee;

(7) suspension or revocation of or any consent decree concerning the right to practice before any state or federal regulatory or licensing body for a cause which in the opinion of the board warrants its action;

(8) a final finding of conduct by state or federal courts of competent jurisdiction, agencies, boards, local governments or commissions for violations of state or federal laws or rules or findings of unethical conduct by licensees that engage in activities regulated by entities including but not limited to: the Public Company Accounting Oversight Board, Internal Revenue Service, U.S. Securities and Exchange Commission, U.S. Department of Labor, U.S. General Accounting Office, U.S. Housing and Urban Development, Texas State Auditor, Texas Comptroller of Public Accounts, Texas Securities Board, Texas Department of Insurance, and the Texas Secretary of State;

(9) knowingly participating in the preparation of a false or misleading financial statement or tax return;

(10) fiscal dishonesty or breach of fiduciary responsibility of any type;

(11) failure to comply with a final order of any state or federal court;

(12) repeated failure to respond to a client's inquiry within a reasonable time without good cause;

(13) intentionally misrepresenting facts or making a misleading or deceitful statement to a client, the board, board staff or any person acting on behalf of the board;

(14) giving intentional false sworn testimony or perjury in court or in connection with discovery in a court proceeding or in any communication to the board or any other federal or state regulatory or licensing body;

(15) threats of bodily harm or retribution to a client;

(16) public allegations of a lack of mental capacity of a client which cannot be supported in fact;

(17) voluntarily disclosing information communicated to the person by an employer, past or present, or through the person's employment in connection with accounting services rendered to the employer, except:

(A) by permission of the employer;

(B) pursuant to the Government Code, Chapter 554 (commonly referred to as the "Whistle Blowers Act");

(C) pursuant to:

(i) a court order signed by a judge;

(ii) a summons under the provisions of:

(I) the Internal Revenue Code of 1986 and its subsequent amendments;

(II) the Securities Act of 1933 (15 U.S.C. §77a et seq.) and its subsequent amendments; or

(III) the Securities Exchange Act of 1934 (15 U.S.C. §78a et seq.) and its subsequent amendments;

(iii) a congressional or grand jury subpoena; or

(iv) applicable federal laws, federal government regulations, including requirements of the PCAOB;

(D) in an investigation or proceeding by the board;

(E) in an ethical investigation conducted by a professional organization of CPAs;

(F) in the course of a peer review under §901.159 of the Act (relating to Peer Review); or

(G) any information that is required to be disclosed by the professional standards for reporting on the examination of a financial statement.

(18) breaching the terms of an agreed consent order entered by the board or violating any Board Order.

(19) Interpretive Comment: The board has found in §519.7 of this title (relating to Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License) and §525.1 of this title (relating to Applications for the UCPAE, Issuance of the CPA Certificate, or Initial License) that any crime of moral turpitude directly relates to the practice of public accountancy. A crime of moral turpitude is defined in this chapter as a crime involving grave infringement of the moral sentiment of the community. The board has found in §519.7 of this title that any crime involving alcohol abuse or controlled substances directly relates to the practice of public accountancy.

(20) Interpretive comment: A conviction or final finding of unethical conduct by a competent authority, for the purpose of paragraph (8) of this subsection, includes any right to practice before the authority or findings that limit the scope of the permit or license conveyed by the authority. Conviction relates to the finding in a criminal proceeding and final finding relates to a determination in a non-criminal proceeding. Unethical conduct or activities are determined by the governmental entity making the determination of a conviction or final finding.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



22 TAC §501.93

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.93 concerning Responses.

Background, Justification and Summary

The rule is being updated to recognize email communications with the Board in addition to postal service mail.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will recognize the acceptance and wide-spread use of email communications with this agency.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§501.93. Responses.

(a) A person shall substantively respond in writing, within 30 days or less as specified by the board, to any communication from the board requesting a response. It is not a substantive response for a person to simply reply that they do not intend to respond or provide the records or documents requested. The time to respond shall commence on the date that the earliest communication was mailed or emailed to the last known mailing or email address of the person, according to the board's records [address furnished to the board by the person].

(b) When requested, and at no expense to the board, the written response shall include:

(1) copies of the person's documentation, reports and/or work papers related to issues in a complaint investigation; and

(2) copies of documents and reports or access to documents and reports related to the issues in a complaint investigation of the person's professional accounting work or ethical issues conducted by state and federal regulatory bodies and professional organizations, that the board may determine is related to the board's investigation.

(c) Failure to timely respond substantively to written communications, or failure to furnish requested documentation and/or work papers, constitutes conduct indicating lack of fitness to serve the public as a professional accountant.

(d) Each applicant and each person required to be registered with the board under the Act shall notify the board, either in writing or through the board's website, of any and all changes in [either] such person's mailing address, email address, or telephone number and the effective date thereof within 30 days before or after such effective date.

(e) Interpretive Comment. This section should be read in conjunction with §519.6 of this title (relating to Subpoenas).

(f) Interpretive Comment. In this section, the term board includes board staff.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 305-7842



CHAPTER 507. EMPLOYEES OF THE BOARD

22 TAC §507.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §507.4 concerning Confidentiality.

Background, Justification and Summary

Section 901.160 of the Public Accountancy Act states that information regarding a disciplinary action is confidential prior to the information going to public hearing. The proposed rule revision makes it clear that a complaint investigation that does not result in disciplinary action is also not public information. The purpose of the provision in the Public Accountancy Act is to protect unproven allegations from becoming public information.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will clarify that all complaint investigations are confidential prior to going to public hearing.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505

E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on March 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§507.4. Confidentiality.

(a) Members of the board, advisory committee members, the executive director, members of board staff, independent contractors and consultants retained by the board shall not disclose any confidential information which comes to their attention, except as may be required by law.

(b) Regardless of whether the board takes disciplinary action or not, all complaint investigations, including [All complaints,] investigation files, investigation reports, and other investigative information in the possession of, received or gathered by the board is confidential, prior to public hearing or board action, and any employee, agent, or member of the board may not disclose the information contained in these files except to another governmental, regulatory or law enforcement agency engaged in an enforcement action and as provided for in §901.160 of the Act (relating to Availability and Confidentiality of Certain Board Files) or upon receiving written authorization from the license applicant or current or former license holder who is the subject of the investigation.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



TITLE 34. PUBLIC FINANCE

PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 67. HEARINGS ON DISPUTED CLAIMS

34 TAC §67.201

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 67, concerning Hearings on Disputed Claims, by amending §67.201 (Procedures Governing Bid Protests).

ERS is a constitutional trust fund established as set forth in Article XVI, §67, Texas Constitution, and further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code, §§61.1 *et seq.*

Amendments are proposed for §67.201 in order to clarify the rule and its interaction with other rules and statutes, to remove the requirement that copies of bid protests be sent to interested parties, and to enhance public understanding of the rule.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amended rules will be in effect:

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

Gabrielle Schreiber, Director of Procurement and Contract Oversight, has determined that for the first five-year period the rules are in effect, there will be no fiscal implication for state or local government or local economies as a result of enforcing or administering the rules; and small businesses, micro-businesses, and rural communities will not be affected.

The proposed amendments to the rules reflect clarifications of the intent of the rules and their interaction with other rules and statutes. The proposed amendments do not constitute a taking. Ms. Schreiber has also determined that, to her knowledge, there are no known anticipated economic effects to persons who are required to comply with the rules as proposed, and the proposed amendments do not impose a cost on regulated persons.

Ms. Schreiber also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a

result of adopting and complying with the rules would be to clarify public understanding of the agency's administration of the rules.

Comments on the proposed amendments may be submitted to Cynthia C. Hamilton, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at *General.Counsel@ers.texas.gov*. The deadline for receiving comments is March 3, 2025, at 10:00 a.m.

The amendments are proposed under Tex. Gov't Code §815.102, which provides authorization for the ERS Board of Trustees to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board.

No other statutes are affected by the proposed amendments.

§67.201. Procedures Governing Bid Protests.

(a) A vendor who is aggrieved by the solicitation, evaluation, or award of a contract [by ERS, hereinafter referred to as the Protesting Party,] may file a formal written protest with the Director of Procurement and Contract Oversight. [~~of ERS. Such protests must be in writing and received in the Office of Procurement and Contract Oversight within the time stated in subsection (d) of this section.~~] Formal protests must conform to the requirements of this subsection, subsections [subsection] (c) and [; subsection] (d), and, when applicable, subsection (e) of this section, and shall be resolved in accordance with [the procedure set forth in] subsections (f) - (h) [(m)] of this section. [~~Copies of the protest must be mailed or delivered by the Protesting Party to ERS and other Interested Parties. For the purposes of this section, "Interested Parties" means all vendors who have submitted bids or proposals for the applicable contract.~~] A [The] protest must be emailed or mailed as specified on the ERS website or hand delivered to ERS during regular business hours. [~~Interested Parties contemporaneously with filing the protest with the Director of Procurement and Contract Oversight of ERS.~~]

(b) If the Executive Director determines that the award of a contract without delay is necessary to protect the best interests of ERS, the agency may proceed with the award despite a timely protest.

[(b) In the event of a timely protest or appeal under this section, ERS shall not proceed further with the solicitation or with the award of the contract unless the Executive Director of ERS makes a determination that the award of the contract or implementation of the contract without delay are necessary to protect the best interests of ERS.]

(c) A formal protest must be sworn and [; under the penalties of perjury,] contain:

(1) a list [specific identification] of every [the] statutory and [or] regulatory provision [provision(s)] that [the action complained of] is alleged to have been violated;

(2) a specific description of every [each] act that is alleged to have violated the listed statutory and [or] regulatory provisions [provision(s) identified in paragraph (1) of this subsection];

(3) a precise statement of [the] relevant facts;

(4) a precise statement [an identification] of every [the] issue of law and fact that the protesting party contends must [or issues to] be resolved; and

(5) argument and authorities in support of the protest.

(d) To be considered timely, the protest must be received [filed]:

(1) by the last day [end] of the posted solicitation period, if the protest concerns the solicitation [documents or actions associated with the publication of solicitation documents]; [or]

(2) by the day of the contract award, if the protest concerns the evaluation; or

(3) [(2)] no later than 10 business [calendar] days after the date that ERS issued notice of award, if the protest concerns the award.

(e) If a protest is not resolved by mutual agreement, the Director of Procurement and Contract Oversight shall issue a written determination.

[(e) If ERS determines that it may need to utilize the services of an actuary, consultant, or another professional (Professional Services) in its efforts to resolve the protest, the Protesting Party shall be required to post a bond in an amount no less than the estimated cost to ERS for such Professional Services. The amount of the bond shall be determined in the sole discretion of ERS. The Protesting Party shall post the bond within five calendar days of notice from ERS that such bond is required or shall be deemed to have waived the right to protest.]

[(1) If such Professional Services are utilized by ERS and the bid protest is not finally resolved in favor of the Protesting Party, the Protesting Party shall be required to forfeit its bond.]

[(2) If such Professional Services are not utilized by ERS and/or the bid protest is finally resolved in favor of the Protesting Party, the Protesting Party's bond shall be returned to the Protesting Party after final resolution of the bid protest.]

(f) A protesting party may submit a written appeal of a protest determination to the Deputy Executive Director. An appeal must be emailed or mailed as specified on the ERS website or hand delivered to ERS during regular business hours and must be received by ERS no later than 10 business days after the date that ERS issued notice of the determination. Any appeal shall be limited to the matters timely raised in writing in the formal protest.

[(f) The Director of Procurement and Contract Oversight of ERS may accept written responses to the protest from Interested Parties and ERS staff.]

[(g) The Director of Procurement and Contract Oversight of ERS may confer with the General Counsel of ERS in his/her review of the protest.]

[(h) The Director of Procurement and Contract Oversight of ERS shall have the authority to settle and resolve the protest.]

[(i) If the protest is not resolved by mutual agreement, the Director of Procurement and Contract Oversight of ERS will issue a written determination on the protest.]

[(1) If the Director of Procurement and Contract Oversight of ERS determines that no violation of rules or statutes has occurred, he/she shall so inform the Protesting Party and Interested Parties by letter that sets forth the reasons for the determination.]

[(2) If the Director of Procurement and Contract Oversight of ERS determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, he/she shall so inform the Protesting Party and Interested Parties by letter which sets forth the reasons for the determination and the appropriate remedial action.]

(j) The determination of a protest by the Director of Procurement and Contract Oversight may be appealed by the Protesting Party to the Deputy Executive Director of ERS. An appeal of the determination by the Director of Procurement and Contract Oversight of ERS must be in writing and must be received in the office of the Deputy Ex-

ecutive Director of ERS no later than 10 calendar days after the date of the determination by the Director of Procurement and Contract Oversight. The appeal shall be limited to the review of the determination by the Director of Procurement and Contract Oversight. Copies of the appeal must be mailed or delivered by the Protesting Party to ERS and Interested Parties contemporaneously with filing the appeal to the Deputy Executive Director of ERS. The appeal must contain a certified statement that such copies have been served on all parties as required by this subsection.]

[(k) The Deputy Executive Director of ERS may confer with the General Counsel of ERS in his/her review of the matter appealed.]

(g) [(b)] An untimely appeal [that is not filed timely] shall not be considered unless the appealing party demonstrates good cause for the untimeliness. [delay is shown. The Deputy Executive Director shall determine if good cause exists.] "Good Cause" [Good Cause] means that a person's failure to act was not because of a lack of due diligence the exercise of which would have caused a reasonable person to take prompt and timely action. A failure to act based on ignorance of the law or facts reasonably discoverable through the exercise of due diligence does not constitute good cause.

(h) A protesting party may appeal a protest determination only to the Deputy Executive Director, and the determination of the Deputy Executive Director shall not be subject to further appeal or judicial review.

[(m) A decision issued in writing by the Deputy Executive Director of ERS shall be the final administrative action of ERS, and no further appeal shall be permitted.]

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

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

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Cynthia Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
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CHAPTER 73. BENEFITS

34 TAC §73.21, §73.22

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 73, concerning Benefits, by amending §73.21 (Reduction Factor for Age and Retirement Option) and adding new §73.22 (Increasing Annuity Option).

ERS is a constitutional trust fund established as set forth in Article XVI, §67, Texas Constitution, and further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code, §§61.1 *et seq.*

Amendments are proposed for §73.21 in order to clarify that the tables described in the rule continue to govern benefits payable after August 31, 2022. New §73.22 is proposed to clarify how ERS will administer the new increasing annuity option described in Tex. Gov't Code §814.110 for ERS retirees and their designated beneficiaries.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amended and new rules will be in effect:

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

Robin Hardaway, Director of Customer Benefits, has determined that for the first five-year period the rules are in effect, there will be no fiscal implication for state or local government or local economies as a result of enforcing or administering the rules; and small businesses, micro-businesses, and rural communities will not be affected.

The proposed amendments and new rules reflect clarification of the intent of the rules and their interaction with other rules and statutes. They also provide for the implementation of the new increasing annuity option described in Tex. Gov't Code §814.110. The proposed amendments and new rule do not constitute a taking. Ms. Hardaway has also determined that, to her knowledge, there are no known anticipated economic effects to persons who are required to comply with the rules as proposed, and the proposed amendments and new rule do not impose a cost on regulated persons.

Ms. Hardaway also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of adopting and complying with the rules would be to enhance public understanding of the agency's administration of the rules and related statutory provisions.

Comments regarding the proposed amendments and new rule may be submitted to Cynthia Canfield Hamilton, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at General.Counsel@ers.texas.gov. The deadline for receiving comments is March 3, 2025, at 10:00 a.m.

The amendments and new rule are proposed under Tex. Gov't Code §814.110, which authorizes the ERS Board of Trustees to adopt rules for the implementation of the new increasing annuity option; 815.105, which requires the Board to adopt mortality, service, and other tables based on actuarial reports; and Tex. Gov't Code §815.102, which authorizes the Board to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board.

No other statutes are affected by the proposed amendments.

§73.21. *Reduction Factor for Age and Retirement Option.*

(a) Actuarial assumptions, mortality tables, and reduction factors used for calculation of benefits first payable on or after September 1, 2018, [~~but prior to September 1, 2022;~~] are those adopted by the board, as adjusted from time to time as required by Tex. Gov't Code §815.105, and apply to forms and effective dates of annuities specified by the board.

(b) The 1999 reduction factors for optional forms of retirement annuities apply to retirements effective on or after September 30, 1999, but prior to September 30, 2009, and are those factors adopted by the board on December 8, 1999, based on assumptions adopted by the board on December 9, 1998. The 1999 reduction factors apply to annuities first payable between January 1, 2000, and August 31, 2009. The 2009 reduction factors for optional forms of retirement annuities apply to retirements effective on or after September 30, 2009, but prior to September 1, 2014, and are those factors adopted by the board on February 24, 2009, based on assumptions adopted by the board on May 13, 2008. The 2014 reduction factors for optional forms of retirement annuities apply to retirements effective on or after September 1, 2014, but prior to September 1, 2018, and are those factors adopted by the board on February 25, 2014, based on assumptions adopted by the board on February 26, 2013, and further based on legislative changes to the retirement plan effective September 1, 2013.

(c) The actuaries have developed reduction factors for early retirement or death in accordance with the mortality tables adopted by the board. The 2009 reduction factors for early retirement or death apply to retirements effective on or after September 30, 2009, but prior to September 1, 2010, and apply to deaths first reported to ERS on or after September 1, 2009, but prior to September 1, 2010, and are those factors adopted by the board on February 24, 2009, based on assumptions adopted by the board on May 13, 2008. The 2010 reduction factors for early retirement or death apply only to those employees hired by the state of Texas on or after September 1, 2009, as defined in §73.2 of this chapter. The 2010 reduction factors apply to retirements effective on or after September 30, 2010, but prior to September 1, 2014, and apply to deaths first reported to ERS on or after September 1, 2010, but prior to September 1, 2014, and are those factors adopted by the board on February 23, 2010, based on legislative changes to the retirement plan effective September 1, 2009. The 2014 reduction factors for early retirement or death apply to retirements effective on or after September 1, 2014, but prior to September 1, 2018, and deaths first reported to ERS on or after September 1, 2014, but prior to September 1, 2018, and are those tables adopted by the board on February 25, 2014, based on assumptions adopted by the board on February 26, 2013, and on legislative changes to the retirement plan effective September 1, 2013.

(d) The 2000 reduction factors for the partial lump sum option apply to retirements effective on or after January 1, 2000, but prior to September 1, 2009, and are those factors adopted by the board on December 8, 1999, based on assumptions adopted by the board on December 9, 1998. The 2009 reduction factors for the partial lump sum option apply to retirements effective on or after September 30, 2009, but prior to September 1, 2014, and deaths first reported to ERS on or after September 1, 2009, but prior to September 1, 2014, and are those factors adopted by the board on February 24, 2009, based on assumptions adopted by the board on May 13, 2008. The 2014 reduction factors for the partial lump sum option apply to retirements effective on or after September 1, 2014, but prior to September 1, 2018, and are those factors adopted by the board on February 25, 2014, based on assumptions adopted by the board on February 26, 2013, and on legislative changes to the retirement plan effective September 1, 2013.

(e) The 2005 reduction factors for standard nonoccupational disability retirements apply to disability retirement applications received by the system on or after September 1, 2005, for retirements effective prior to September 30, 2009, and are those factors adopted by the board on August 24, 2005, based on assumptions adopted by the board on December 10, 2003. The 2009 reduction factors for standard nonoccupational disability retirements apply to retirements effective on or after September 30, 2009, but prior to September 30, 2010, and are those factors adopted by the board on February 24, 2009, based on assumptions adopted by the board on May 13, 2008. The 2010 reduction factors for standard nonoccupational disability retirements apply only to those employees hired by the state of Texas on or after September 1, 2009, as defined in §73.2 of this chapter. The 2010 reduction factors for standard nonoccupational disability retirements apply to retirements effective on or after September 30, 2010, but prior to September 1, 2014, and are those factors adopted by the board on February 23, 2010, based on legislative changes to the retirement plan effective September 1, 2009. The 2014 reduction factors for standard nonoccupational disability retirements apply to retirements effective on or after September 1, 2014, but prior to September 1, 2018, and are those factors adopted by the board on February 25, 2014, based on assumptions adopted by the board on February 26, 2013, and on legislative changes to the retirement plan effective September 1, 2013.

§73.22. Increasing Annuity Option.

(a) This section governs the increasing annuity option described in Tex. Gov't Code § 814.110, which is also known as the "self-funded increase option."

(b) If a retiree selected an increasing annuity under Tex. Gov't Code § 814.110 prior to retirement, annuity payments shall increase by two percent (2%) each year, calculated annually on the anniversary of the retiree's original retirement.

(c) If a retiree selected an increasing annuity together with an optional service retirement annuity described by Tex. Gov't Code § 814.108, the retiree shall receive the annual increase for the retiree's lifetime, and upon the retiree's death, the retiree's designated beneficiary shall continue to receive the annual increase during the beneficiary's lifetime.

(d) If a retiree selected an increasing annuity together with an optional service retirement annuity described by Tex. Gov't Code § 814.108 and the retiree's designated beneficiary predeceases the retiree, the system shall recalculate the annuity. The annuity first shall be recalculated in accordance with Tex. Gov't Code § 814.108(d) and then shall be adjusted to account for the annual increase. The recalculated annuity shall be actuarially equivalent to the increasing annuity that the retiree would have received if the retiree had selected only an increasing annuity without the optional service retirement annuity. After the annuity is recalculated, the retiree shall continue to receive an annual increase based on the recalculated amount, in accordance with Tex. Gov't Code § 814.110 and this section, throughout the retiree's lifetime.

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

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Cynthia Hamilton
General Counsel and Chief Compliance Officer
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CHAPTER 76. CASH BALANCE BENEFIT

The Employees Retirement System of Texas (ERS) proposes amendments to 34 Texas Administrative Code (TAC) Chapter 76, concerning Cash Balance Benefit, by amending §76.1 (Definitions), §76.3 (Proportionate Service Purchases), §76.4 (Optional Retirement Program), §76.5 (Factor Tables), §76.9 (Annual Interest Rate), §76.10 (Gain Sharing Interest Rate), §76.11 (Return of Excess Contributions), and §76.12 (Uniformed Services Employment and Reemployment Rights Act). Additionally, ERS proposes to repeal the following rules in TAC Chapter 76: §76.6 (Optional Cash Balance Retirement Benefits), §76.7 (Change in Annuity Selection), and §76.8 (Partial Lump-Sum Option).

ERS is a constitutional trust fund established as set forth in Article XVI, §67, Texas Constitution, and further organized pursuant to Title 8, Tex. Gov't Code, as well as 34 Texas Administrative Code, §§61.1 *et seq.*

Sections 76.1, 76.3, 76.4, 76.5, 76.9, 76.10, 76.11, and 76.12 are being amended in order to incorporate changes resulting from the enactment of Tex. Gov't Code Chapter 840A and in order to clarify the intent of the rules and their interaction with other rules and statutes, thus enhancing public understanding.

Sections 76.6, 76.7, and 76.8 are being repealed because the language is superfluous as a result of amendments to Tex. Gov't Code Chapter 820.

GOVERNMENT GROWTH IMPACT STATEMENT

ERS has determined that during the first five-year period the amended rules will be in effect:

- (1) the proposed amendments will not create or eliminate a government program;
- (2) implementation of the proposed amendments will not require the creation of new employee positions or eliminate existing employee positions;
- (3) implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed amendments will not require an increase or decrease in fees paid to the agency;
- (5) the proposed amendments will not create a new rule or regulation;
- (6) the proposed amendments will expand existing rule provisions to incorporate statutory amendments and will repeal existing rule provisions that are now superfluous due to statutory amendments;
- (7) the proposed amendments will not increase or decrease the number of individuals subject to the rules' applicability; and
- (8) the proposed amendments will not positively or adversely affect the state's economy.

Ms. Robin Hardaway, Director of Customer Benefits, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implication for state or local government or local economies as a result of enforcing or administering the amendments; and small businesses, micro-businesses, and rural communities will not be affected.

Ms. Hardaway has determined that the proposed amendments align with the eligibility and benefit standards for individuals participating in the current retirement plans and that the proposed amendments do not constitute a taking. Ms. Hardaway has also determined that, to her knowledge, there are no known anticipated economic effects to persons who are required to comply with the amendments as proposed and the proposed amendments do not impose a cost on regulated persons.

Ms. Hardaway has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of adopting and complying with the amendments would be that the proposed amendments align the cash balance benefit with statutory amendments and new statutory provisions and the amendments clarify the intent of the rules and their interaction with other rules and statutes, thus enhancing public understanding.

Comments on the proposed amendments may be submitted to Cynthia C. Hamilton, General Counsel, Employees Retirement System of Texas, P. O. Box 13207, Austin, Texas 78711-3207, or you may email Ms. Hamilton at *General.Counsel@ers.texas.gov*. The deadline for receiving comments is March 3, 2025, at 10:00 a.m.

34 TAC §§76.1, 76.3 - 76.5, 76.9 - 76.12

The amendments are proposed under Tex. Gov't Code §815.102, which authorizes the ERS Board of Trustees to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the board, and Tex. Gov't Code §820.004 and §840A.004, which authorize the board to adopt rules necessary to implement cash balance retirement benefits.

No other statutes are affected by the proposed amendments.

§76.1. Definitions.

For purposes of this chapter:

(1) "Cash balance benefit" means the retirement benefit established by Tex. Gov't Code Chapter 820 or Chapter 840A.

(2) "Annuitant" means an individual who is receiving a cash balance annuity established by Tex. Gov't Code Chapter 820 or Chapter 840A, including[, but not limited to,] a retiree, a beneficiary [under §76.6 of this chapter], and an alternate payee under a Qualified Domestic Relations Order.

§76.3. Proportionate Service Purchases.

(a) An individual participating in the Proportionate Retirement Program under Tex. Gov't Code Chapter 803 who did not establish and maintain ERS membership prior to September 1, 2022, may purchase previously canceled [established] service credit in an amount equal to withdrawn member contributions but only for the purpose of establishing service credit and making a deposit under Tex. Gov't Code Chapter 820, including Section 820.032(c)(2) regarding eligibility to participate in the State Employees Group Benefits Program. The system shall receive an employer matching contribution for any individual purchasing previously canceled [established] service credit under this section.

(b) Tex. Gov't Code Chapter 840A does not authorize the purchase of service credit previously canceled in the Judicial Retirement

System of Texas Plan Two. An individual who is a cash balance group member under Chapter 840A may only purchase service credit previously canceled in another retirement system under Tex. Gov't Code §803.202 or §803.203.

§76.4. Optional Retirement Program.

For the sole purpose of determining eligibility to receive a cash balance retirement annuity under Tex. Gov't Code Chapter 820, the system shall consider service performed as a participant in the optional retirement program under Tex. Gov't Code Chapter 830 as if it were service for which credit is established in the system. Each full or partial month of service shall count as one-twelfth of a year of creditable service.

§76.5. Factor Tables.

The board shall adopt actuarial assumptions, mortality tables, reduction factors, and other factors applicable to cash balance group members and may adjust them from time to time as provided by Tex. Gov't Code §815.105 or §840.005.

§76.9. Annual Interest Rate.

(a) The annual interest rate established by Tex. Gov't Code §820.102 or §840A.103 shall be applied to a cash balance group member's accumulated account balance, adjusted for compounding, at the beginning of each month before any contribution is deposited.

(b) The system shall not recalculate any annuity based on annual interest.

§76.10. Gain Sharing Interest Rate.

(a) Under Tex. Gov't Code §820.103 and §840A.104, the system shall calculate the gain sharing interest rate based on the investment returns of the total combined ERS retirement trust fund as of August 31 of each of the applicable fiscal years, using the Global Investment Performance Standards for calculating and reporting investment performance. The total combined ERS retirement trust fund does not include amounts associated with the State Employees Group Benefits Program or the TexaSaver program.

~~[(b) Each fiscal year, the system shall apply the gain sharing interest rate as follows:]~~

~~[(1) for a cash balance group member, the rate shall be multiplied by the member's accumulated account balance as of the end of the preceding fiscal year;]~~

~~[(2) for a cash balance annuitant, the rate shall be multiplied by the amount of the annuitant's cash balance annuity payment as of the end of the preceding fiscal year; and]~~

~~[(3) for an annuitant who retired after August 31 but before the application of the gain sharing interest rate, the rate shall be multiplied by the amount of the annuitant's initial cash balance annuity payment.]~~

~~(b) [(e)] A person may not receive gain sharing interest as both a cash balance group member and a cash balance annuitant during the same fiscal year.~~

~~(c) [(d)] The gain sharing interest rate shall be applied no earlier than December 1.~~

§76.11. Return of Excess Contributions.

(a) Except as provided by subsection (c) of this section, when a person who receives a cash balance or disability retirement annuity dies, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account [in the employees saving account] at the time

of service retirement exceeds the total of annuity payments payable before the retiree's death.

(b) The benefit provided by subsection (a) of this section is payable to a person designated by the retiree at the time of retirement in a signed and witnessed document filed with the system. If a retiree does not designate a beneficiary or if the beneficiary does not survive the retiree, the benefit is payable to the retiree's estate.

(c) A death benefit may not be paid under subsections (a) and (b) of this section if the retiree selected an optional cash balance annuity [under §76.6 of this chapter].

(d) If the person designated as the beneficiary of an optional cash balance annuity, other than one selected under Tex. Gov't Code §820.0535(c)(3), §820.0535(c)(4), §840A.054(c)(3), or §840A.054(c)(4) [§76.6(e)(3) or §76.6(e)(4) of this chapter], predeceases the retiree, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account [in the employees saving account] at the time of service retirement exceeds the sum of annuity payments payable to the retiree before death.

(e) The benefit provided by subsection (d) of this section is payable to the deceased retiree's estate.

(f) If a beneficiary dies while receiving an optional cash balance annuity, other than one selected under Tex. Gov't Code §820.0535(c)(3), §820.0535(c)(4), §840A.054(c)(3), or §840A.054(c)(4) [§76.6(e)(3) or §76.6(e)(4) of this chapter], a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account [in the employees saving account] at the time of service retirement exceeds the sum of annuity payments payable to the retiree and the beneficiary before the beneficiary's death.

(g) If a beneficiary dies while receiving a cash balance annuity selected under Tex. Gov't Code §814.302, [as described in §76.6(e)(1) of this chapter, or Tex. Gov't Code] §814.304(a), or §839.302, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the member's individual account [in the employees saving account] at the time of death exceeds the sum of annuity payments payable to the beneficiary before the beneficiary's death.

(h) The benefits provided by subsections (f) and (g) of this section are payable to the deceased beneficiary's estate.

(i) A beneficiary designation that names a former spouse as beneficiary is invalid unless the designation is made after the date of the divorce.

§76.12. Uniformed Services Employment and Reemployment Rights Act.

To the extent that the Uniformed Services Employment and Reemployment Rights Act (USERRA) applies to cash balance group [system] members, a member:

(1) Shall be entitled to contributions, benefits, and credited service for the period of qualified military service to the extent required by USERRA; Internal Revenue Code §414(u); and effective January 1, 2007, Internal Revenue Code §401(a)(37); and

(2) May claim service credit for military service not previously established by paying a contribution for each month of service credit in an amount equal to the greater of:

(A) The amount that the member contributed for the first full month of membership service that is after the member's date

of release from active military duty and that is credited in the system; or

(B) \$18.

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

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

TRD-202500153
Cynthia Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: March 2, 2025
For further information, please call: (877) 275-4377



34 TAC §§76.6 - 76.8

The repeals are proposed under Tex. Gov't Code §815.102, which provides authorization for the ERS Board of Trustees to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board, and Tex. Gov't Code §820.004 and §840A.004, which explicitly authorize the board to adopt rules as necessary to implement cash balance retirement benefits and include implied authority to repeal rules as necessary to implement cash balance retirement benefits.

No other statutes are affected by the proposed repeals.

§76.6. Optional Cash Balance Retirement Benefits.

§76.7. Change in Annuity Selection.

§76.8. Partial Lump-Sum Option.

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

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

TRD-202500154
Cynthia Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Earliest possible date of adoption: March 2, 2025
For further information, please call: (877) 275-4377



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 7. TEXAS COMMISSION ON LAW ENFORCEMENT

CHAPTER 211. ADMINISTRATION

37 TAC §211.16

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.16, Establishment or Continued Operation of an Appointing Entity. This

proposed amended rule conforms with the amendments made to Texas Occupations Code §1701.163 by Senate Bill 1445 (88R). The proposed amended rule would allow law enforcement agencies in existence before June 1, 2024, to use personally owned patrol vehicles.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.163 to establish minimum standards with respect to the creation or continued operation of a law enforcement agency. There will be no anticipated economic costs to persons required to comply with the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

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

The Commission will accept comments regarding the proposed amended rule. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, and §1701.163, Minimum Standards for Law Enforcement Agencies. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code

§1701.163 requires the Commission to adopt rules to establish minimum standards with respect to the creation or continued operation of a law enforcement agency.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, and §1701.163, Minimum Standards for Law Enforcement Agencies. No other code, article, or statute is affected by this proposal.

§211.16. Establishment or Continued Operation of an Appointing Entity.

(a) To establish that an agency or a prospective agency meets the minimum standards for the creation or continued operation of a law enforcement agency, the agency must provide evidence that the agency:

- (1) provides public benefit to the community;
- (2) has sustainable funding sources that meet or exceed the continued operating expenses outlined in a line-item budget for the agency;
- (3) has physical resources available to officers, including:
 - (A) at least one firearm per officer on duty;
 - (B) at least one less lethal force weapon per officer on duty;
 - (C) effective communications equipment, specifically:
 - (i) at least one radio communication device per officer on duty performing patrol, courtroom security, traffic enforcement, responding to calls for service, assigned to a controlled access point, acting as a visual deterrent to crime, surveillance, warrant execution, and service of civil process; and
 - (ii) at least one cell phone device per officer on duty who may have contact with the general public and is not performing any of the duties described in (i);
 - (D) at least one bullet-resistant vest per officer on duty with vest panels that:
 - (i) have been certified as compliant by the National Institute of Justice (NIJ);
 - (ii) are within the ballistic performance warranty period listed by the manufacturer on the affixed tags; and
 - (iii) have never been shot or otherwise compromised;
 - (E) at least one uniform per officer whose duties include any of the following:
 - (i) performing patrol;
 - (ii) courtroom security;
 - (iii) traffic enforcement;
 - (iv) responding to calls for service;
 - (v) assigned to a controlled access point;
 - (vi) acting as a visual deterrent to crime;
 - (vii) warrant execution; or
 - (viii) service of civil process;
 - (F) at least one motor vehicle owned and insured by an agency created on or after June 1, 2024; and
 - (G) patrol vehicles provided to officers whose duties include either performing patrol, traffic enforcement, or responding to

calls for service that [owned, insured, and equipped by the agency and provided to officers whose duties include any of the following]:

(i) are owned, insured, and equipped by the agency [performing patrol]; or

(ii) may be personally owned for agencies in existence before June 1, 2024, that have not provided agency-owned patrol vehicles from June 1, 2024, to the present; [traffie enforcement; or]

~~(iii) responding to calls for service;~~

(4) has physical facilities, including:

(A) an evidence room or other acceptable secure evidence storage for officers whose duties include any of the following:

(i) performing patrol;

(ii) traffic enforcement;

(iii) criminal investigations;

(iv) responding to calls for service; or

(v) executing search or arrest warrants;

(B) a dispatch area for any agency appointing and employing telecommunicators; and

(C) a public area including written notices posted and visible 24 hours a day explaining:

(i) how to receive the most immediate assistance in an emergency;

(ii) how to make a nonemergency report of a crime; and

(iii) how to make a compliment or complaint on a member of the agency by mail, online, or by phone;

(5) has policies, including policies on:

(A) use of force;

(B) vehicle pursuit;

(C) professional conduct of officers;

(D) domestic abuse protocols;

(E) response to missing persons;

(F) supervision of part-time officers;

(G) impartial policing;

(H) medical and psychological examination of licensees;

(I) active shooters;

(J) barricaded subjects;

(K) evidence collection and handling;

(L) eyewitness identification;

(M) misconduct investigations;

(N) hiring a license holder;

(O) personnel files;

(P) uniform and dress code;

(Q) training required to maintain licensure; and

(R) outside and off-duty employment;

(6) has an established administrative structure, including:

(A) an organizational chart for the agency that illustrates the division and assignment of licensed and unlicensed personnel;

(B) a projection for the number of full-time peace officers, part-time peace officers, and unpaid peace officers that the agency would employ during the year if at full staffing; and

(C) the number of School Resource Officer (SRO) positions employed by the agency and working in schools if the agency is not an independent school district (ISD) police department;

(7) has liability insurance for the agency and any [its] vehicles used for agency purposes;

(8) has a defined process by which the agency will receive by mail, online, and by phone and document compliments and complaints on its employees; and

(9) any other information the commission requires.

(b) An entity authorized by law to establish a law enforcement agency and appoint licensees must first complete training offered and required by the commission on the establishment and continued operation of a new agency. The entity may then make application for an agency number by submitting the current agency number application form, any associated application fee, and evidence that they meet the requirements of this rule.

(c) An entity authorized by Local Government Code, §361.022 to operate a correctional facility to house inmates, in this state, convicted of offenses committed against the laws of another state of the United States, and appoint jailers requiring licensure by the commission, may make application for an agency number by submitting the current agency number application form, any associated application fee, and a certified copy of the contract under which the facility will operate.

(d) A political subdivision wanting to establish a consolidated emergency telecommunications center and appoint telecommunicators, as required by Texas Occupations Code, §1701.405, may make application for an agency number by submitting the current agency number application form, any associated application fee and a certified copy of the consolidation contract.

(e) The Texas Department of Criminal Justice - Pardon and Parole Division, a community supervision and corrections department, or a juvenile probation department may make application for an agency number if seeking firearms training certificates for parole officers, community supervision and corrections officers, or juvenile probation officers by submitting the current agency number application form and any associated application fee.

(f) All law enforcement agencies must complete and submit an annual report due between January 1st and March 1st of each year documenting their continued compliance with the requirements of this rule.

(g) The effective date of this section for agencies not in existence before June 1, 2024, is June 1, 2024. The effective date of this section for agencies already in existence before June 1, 2024, is September 1, 2025.

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

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



37 TAC §§211.27 - 211.29

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.27, Reporting Responsibilities of Individuals, §211.28, Responsibility of a Law Enforcement Agency to Report an Arrest, and §211.29, Responsibilities of Agency Chief Administrators. These proposed amended rules would remove the requirement of licensees and appointing law enforcement agencies to report to the Commission any arrests, pending criminal charges, or criminal dispositions. These proposed amended rules would also require law enforcement agencies to report to the Commission the failure by an applicant or licensee of a medical examination (L-2), psychological examination (L-3), fitness for duty examination (FFDE), or drug screen, which conforms with the addition of Texas Occupations Code §1701.167 made by Senate Bill 1445 (88R).

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years these proposed amended rules will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendments.

Mr. Beauchamp has determined that for each year of the first five years these proposed amended rules will be in effect, there will be a positive benefit to the public by eliminating duplicative reporting requirements regarding criminal offenses and by conforming with Texas Occupations Code §1701.167 to require the reporting to the Commission of a failed examination. There will be no anticipated economic costs to persons required to comply with the proposed amendments.

Mr. Beauchamp has determined that for each year of the first five years these proposed amended rules will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendments.

Mr. Beauchamp has determined that for each year of the first five years these proposed amended rules will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendments.

Mr. Beauchamp has determined the following:

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

(6) the proposed rules do not expand, limit, or repeal an existing regulation;

(7) the proposed rules do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rules do not positively or adversely affect this state's economy.

The Commission will accept comments regarding the proposed amended rules. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rules are proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.153 requires the Commission to establish reporting standards and procedures for matters the Commission considers necessary for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.167 requires the reporting to the Commission of a failed examination. Texas Occupations Code §1701.306 requires the Commission to adopt rules to establish appropriate standards and measures to be used by a law enforcement agency in reporting medical (L-2) and psychological (L-3) examinations.

The amended rules as proposed affect or implement Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. No other code, article, or statute is affected by this proposal.

§211.27. *Reporting Responsibilities of Individuals.*

(a) Within thirty days, a licensee or person meeting the requirements of a licensee shall report to the commission:

- (1) any name change;
- (2) a permanent mailing address other than an agency address;
- (3) all subsequent address changes; and

~~{(4) an arrest, charge, or indictment for a criminal offense above the grade of Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any;}~~

~~{(5) the final disposition of the criminal action; and}~~

~~(4) [(6)] receipt of a dishonorable discharge from the armed forces of the United States.~~

(b) The effective date of this section is May 1, 2025 ~~[June 1, 2022]~~.

§211.28. *Responsibility of a Law Enforcement Agency to Report an Arrest.*

(a) When an agency receives information that it has arrested or charged a licensee ~~[an individual that is required to report under §211.27 of this title]~~ for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, the chief administrator or their designee must report such arrest to the commission in the format currently prescribed by the commission within 30 business days of notice of the arrest, including the:

- (1) name, date of birth and PID of licensee (if available);
 - (2) name, address, and telephone number of the arresting agency;
 - (3) date and nature of the arrest;
 - (4) arresting agency incident, booking, or arrest number;
- [and]
- (5) name, address, and telephone number of the court in which such charges are filed or such arrest is filed; and[-]
 - (6) copies of all related offense reports and charging documents.

(b) The effective date of this section is May 1, 2025 ~~[July 14, 2014]~~.

§211.29. *Responsibilities of Agency Chief Administrators.*

(a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.

(b) An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.

(c) An agency chief administrator must comply with the appointment and retention requirements under Texas Occupations Code, Chapter 1701.

(d) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.

(e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.

(f) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.

(g) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.

(h) An agency chief administrator shall notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission. An agency chief administrator shall notify the commission upon a final determination of a failed fit-for-duty examination (FFDE) or drug screen within 30 days on a form prescribed by the commission.

(i) ~~[(h)]~~ An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training.

~~(j) [(i)]~~ An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.

~~(k) [(j)]~~ Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.

~~(l) [(k)]~~ An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.

~~(m) [(l)]~~ An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.

~~(n) [(m)]~~ An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.

~~[(n)]~~ An agency shall notify the commission electronically within 30 days, when it receives information that a person under appointment with that agency has been arrested, charged, indicted, or convicted for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence.[-]

(o) Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:

- (1) the licensee's name, date of birth, last four digits of the social security number, or PID;
- (2) the requested change; and
- (3) the reason for the change.

(p) An agency chief administrator may not appoint an applicant subject to pending administrative action based on:

- (1) enrollment or licensure ineligibility; or
- (2) statutory suspension or revocation.

(q) The effective date of this section is May 1, 2025 ~~[February 1, 2016]~~.

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

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

TRD-202500133
Gregory Stevens
Executive Director
Texas Commission on Law Enforcement
Earliest possible date of adoption: March 2, 2025
For further information, please call: (512) 936-7700



37 TAC §211.41

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §211.41, Procurement Protests and Records. This proposed new rule conforms with the Texas Government Code §2155.076 and 34 Texas Administrative Code §§20.531 - 20.538. The proposed new rule would

provide vendors a process for protesting agency procurement actions consistent with rules adopted by the Comptroller.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by conforming with Texas Government Code §2155.076 to establish a process for protesting agency procurement actions. There will be no anticipated economic costs to persons required to comply with the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

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

The Commission will accept comments regarding the proposed new rule. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The new rule is proposed pursuant to Texas Government Code §2155.076, Protest Procedures, and Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority. Texas Government Code §2155.076 requires the Commission to adopt rules to establish protest procedures for resolving vendor protests relating to purchasing issues. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and for the Commission's internal management and con-

trol and to contract as the Commission considers necessary for certain services, facilities, studies, and reports.

The new rule as proposed affects or implements Texas Government Code §2155.076, Protest Procedures, and Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority.

No other code, article, or statute is affected by this proposal.

§211.41. Procurement Protests and Records.

(a) Any actual or prospective bidder who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest the award of the contract by submitting a protest to the Executive Director of the commission.

(1) Such protests must be in writing and received in the Executive Director's office within ten business days after such aggrieved person knows, or should have known, of the occurrence of the action, which is protested.

(2) A formal protest must be sworn to by affidavit before a notary public and contain the following information or documentation:

(A) a specific identification of the complaint;

(B) a specific description of each act alleged to have violated the statutory or regulatory provision(s) pursuant to Chapter 2260 of the Texas Government Code;

(C) a precise statement of the relevant facts;

(D) an identification of the issue or issues to be resolved;

(E) argument and authorities in support of the protest; and

(F) a statement that copies of the protest have been mailed or delivered to the commission.

(3) Copies of the protest must be mailed or delivered by the protesting party to the commission and other interested parties.

(b) In the event of a timely protest or appeal under this policy, the commission shall consider the protest and reply in writing before proceeding further with the solicitation or with the award of the contract unless the Executive Director makes a written determination that the award of the contract without delay is necessary to protect interests of the state.

(c) The Chief Financial Officer, or their designee, shall have the authority, prior to appeal to the Executive Director, to settle and resolve the dispute concerning the solicitation or award of a contract. The Chief Financial Officer may solicit written responses to the protest from other interested parties. This does not prohibit a party from submitting a written response without solicitation. If the protest is not resolved by mutual agreement, the Chief Financial Officer will issue a written determination on the protest.

(d) If the Chief Financial Officer determines that no rules or statutory violations have occurred, they shall inform the protesting party, the Executive Director, and other interested parties in writing setting forth the reasons for the determination.

(e) If the Chief Financial Officer determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, they shall inform the protesting party, the Executive Director, and other interested parties in writing setting forth the reasons for the determination and the appropriate remedial action.

(f) If the Chief Financial Officer determines that a violation of the rules or statutes has occurred in a case where a contract has been

awarded, they shall so inform the protesting party, the Executive Director, and other interested parties in writing setting forth the reasons for the determination, which may include voiding the contract.

(g) The Chief Financial Officer's determination on a protest may be appealed by an interested party to the Executive Director.

(1) An appeal of the Chief Financial Officer's determination must be in writing and must be received in the Executive Director's office no later than ten business days after the date of the Chief Financial Officer's determination.

(2) The appeal shall be limited to review of the Chief Financial Officer's determination.

(3) Copies of the appeal must be mailed or delivered by the appealing party to the commission and other interested parties and must contain an affidavit that such copies have been provided.

(h) If a timely protest of a solicitation or contract award is filed under this section, the Executive Director may delay the solicitation or award of the contract unless the contract must be awarded without delay to protect the best interests of the state.

(i) The Executive Director shall review the protest, the Chief Financial Officer's determination, and the appeal. The Executive Director may refer the matter to the Commissioners for consideration or issue a decision on the protest.

(j) When a protest has been referred to the Commissioners, copies of the appeal, responses of interested parties, if any, and the Executive Director's recommendation shall be delivered to the Commissioners, the appealing party, and other interested parties. The Commissioner's determination of the appeal shall be made on the record and reflected in the minutes of an open meeting and shall be final.

(k) Unless good cause for delay is shown or the Executive Director determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed in a timely manner will not be considered.

(l) A decision issued either by the Commissioners, or in writing by the Executive Director, shall be the final administrative action.

(m) The commission shall maintain sufficient records and reports to verify compliance with applicable law, including:

(1) each contract entered into by the commission;

(2) all contract solicitation documents related to the contract;

(3) all documents that reflect and identify the basis for any decisions relating to a procurement, including actions taken that deviate from requirements or recommendations in the state procurement manual or contract management guide;

(4) all purchase orders, change orders, and invoices associated with the contract;

(5) all contract amendments, renewals, or extensions executed by the commission; and

(6) all other documents necessary to record the full execution and completion of each contract.

(n) The commission may destroy the contract and related documents after the seventh anniversary of the date:

(1) the contract is completed or expires; or

(2) all issues that arise from any litigation, claim, negotiation, audit, Public Information Act request, administrative review, or other action involving the contract or related documents are resolved.

(o) The effective date of this section is May 1, 2025.

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

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

TRD-202500134

Gregory Stevens

Executive Director

Texas Commission on Law Enforcement

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 936-7700



CHAPTER 215. TRAINING AND EDUCATIONAL PROVIDERS

37 TAC §215.9

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §215.9, Training Coordinator. This proposed amended rule conforms with the amendments made to Texas Occupations Code §1701.167 by Senate Bill 1445 (88R). The proposed amended rule would require training coordinators to report to the Commission the failure by an applicant of a medical examination (L-2) or psychological examination (L-3).

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.167 to require the reporting to the Commission of a failed examination. There will be no anticipated economic costs to persons required to comply with the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

(1) the proposed rule does not create or eliminate a government program;

(2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;

- (4) the proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule does not create a new regulation;
- (6) the proposed rule does not expand, limit, or repeal an existing regulation;
- (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rule does not positively or adversely affect this state's economy.

The Commission will accept comments regarding the proposed amended rule. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.153 requires the Commission to establish reporting standards and procedures for matters the Commission considers necessary for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.167 requires the reporting to the Commission of a failed examination. Texas Occupations Code §1701.306 requires the Commission to adopt rules to establish appropriate standards and measures to be used by a law enforcement agency in reporting medical (L-2) and psychological (L-3) examinations.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. No other code, article, or statute is affected by this proposal.

§215.9. *Training Coordinator.*

- (a) A training coordinator must hold a valid instructor license or certificate and must be a full-time paid employee of that Training Provider.
- (b) The training coordinator must:
 - (1) ensure compliance with commission rules and guidelines;[-]
 - (2) prepare, maintain, and submit the following reports within the time frame specified:
 - (A) reports of training:
 - (i) basic licensing course shall be submitted prior to students attempting a licensing exam; and
 - (ii) within 30 days of completion of continuing education course;
 - (B) self-assessment reports as required by the commission;

- (C) a copy of advisory board minutes during an on-site evaluation;
- (D) training calendars-schedules must be available for review and posted on the internet, or another public venue, no later than 30 days prior to the beginning of each calendar quarter or academic semester. A continually updated and posted (live) calendar will meet this requirement; and
- (E) any other reports or records as requested by the commission;
- (3) be responsible for the administration and conduct of each course, including those conducted at ancillary sites, and specifically:
 - (A) appointing and supervising qualified instructors;
 - (B) maintaining course schedules and training files. At a minimum, training files shall contain:
 - (i) complete lesson plan;
 - (ii) clear learning objectives;
 - (iii) instructor biography indicating subject matter expertise and teaching experience;
 - (iv) approved class roster and original sign-in sheet;
 - and
 - (v) course evaluation;
 - (C) enforcing all admission, attendance, retention, and other standards set by the commission and approved by the advisory board;
 - (D) securing and maintaining all facilities necessary to meet the inspection standards of this section;
 - (E) controlling the discipline and demeanor of each student and instructor during class;
 - (F) distributing a current version of the Texas Occupations Code, Chapter 1701 and commission rules to all students at the time of admission to any course that may result in the issuance of a license;
 - (G) distributing learning objectives to all students at the beginning of each course;
 - (H) ensuring that all learning objectives are taught and evaluated;
 - (I) proctoring or supervising all examinations to ensure fair, honest results; and
 - (J) maintaining training files, records of tests, and other evaluation instruments for a period of five years;[-]
- (4) receive all commission notices on behalf of the training provider and forward each notice to the appointing authority; [~~and~~]
- (5) attend or have a designee attend each academy coordinator's workshop conducted by the commission. No person may serve as a representative for more than one provider per conference. Each representative must be affiliated with the training provider; and[-]
- (6) notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission.
- (c) If the position of training coordinator becomes vacant, upon written request from the chief administrator of the training

provider the commission may, at the discretion of the executive director, waive the requirements for a period not to exceed six months.

(d) Upon written request from the chief administrator of a training provider that does not have a full-time paid staff, the commission may, at the discretion of the executive director, waive the requirements in subsection (a) of this section.

(e) The effective date of this section is May 1, 2025 [May 1, 2018].

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

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

TRD-202500135

Gregory Stevens

Executive Director

Texas Commission on Law Enforcement

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 936-7700



CHAPTER 217. ENROLLMENT, LICENSING, APPOINTMENT, AND SEPARATION

37 TAC §217.7

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §217.7, Reporting Appointment and Separation of a Licensee. This proposed amended rule conforms with the recommendations made by an advisory committee and approved by the Commission in the Hiring Procedures Model Policy. The proposed amended rule would require all applicants and licensees to be fingerprinted and subjected to a criminal background check before being appointed by a law enforcement agency.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with the Hiring Procedures Model Policy. There will be minimal anticipated economic costs to persons required to comply with the proposed amendment due to increases in the number of times an individual may be fingerprinted.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

- (1) the proposed rule does not create or eliminate a government program;
- (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule does not create a new regulation;
- (6) the proposed rule does expand an existing regulation by requiring fingerprinting prior to every appointment of a licensee;
- (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rule does not positively or adversely affect this state's economy.

The Commission will accept comments regarding the proposed amended rule. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.303, License Application; Duties of Appointing Entity, and §1701.451, Preemployment Procedure. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.303 requires an agency to have a licensee's criminal history record information and to have a licensee fingerprinted to disclose any criminal record if there has been a 180 break in service. Texas Occupations Code §1701.451 requires an agency to obtain and review criminal history record information before appointing a licensee.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.303, License Application; Duties of Appointing Entity, and §1701.451, Preemployment Procedure. No other code, article, or statute is affected by this proposal.

§217.7. *Reporting Appointment and Separation of a Licensee.*

(a) Before a law enforcement agency may appoint a person licensed or seeking a license as a peace officer, county jailer, or telecommunicator the agency head or designee must:

- (1) obtain the person's written consent for the agency to view the person's employment records;
- (2) obtain a copy of the Personal Status Report (PSR) maintained by the commission;
- (3) obtain a completed, signed, and notarized Personal History Statement (PHS);
- (4) obtain a Computerized Criminal History (CCH) from TCIC and NCIC;
- (5) obtain proof of eligibility after separation from the military, if applicable;
- (6) conduct and document a background investigation;

(7) for peace officers, obtain proof of weapons qualification within the 12 months preceding appointment;

(8) for current licensees, electronically request and obtain the F-5 Return (F5R) from the commission, contact each of the person's previous law enforcement employers, and document the contact on the F5 return; ~~and~~

(9) obtain new proof that the person has been fingerprinted and subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;

(10) ~~[(9)]~~ in addition to the requirements listed in this section:

(A) For a licensee with more than 180 days since their last appointment:

(i) obtain a new declaration of psychological and emotional health (L3 Form); and

(ii) obtain a new declaration of the lack of any drug dependency or illegal drug use (L2 Form); and

~~[(iii) obtain new proof that the licensee has been fingerprinted and subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record.]~~

(B) For a person's initial appointment:

(i) obtain proof of meeting educational requirements;

(ii) obtain proof of meeting U.S. citizenship requirements;

(iii) ~~[obtain new proof that the person has been fingerprinted and subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;]~~ obtain a new declaration of psychological and emotional health (L3 Form), if more than 180 days from the graduation of the basic licensing course;

~~[(iv) obtain a new declaration of psychological and emotional health (L3 Form), if more than 180 days from the graduation of the basic licensing course;]~~

(iv) ~~[(v)]~~ obtain a new declaration of medical eligibility and lack of any drug dependency or illegal drug use (L2 Form), if more than 180 days from the graduation of the basic licensing course; and

(v) ~~[(vi)]~~ submit an appointment application (L1 Form) and receive an approval of the application before the person discharges any duties related to the license sought; and[-]

(11) ~~[(10)]~~ For current licensees, submit an [a Statement of Appointment Application (L1 Form) within 7 days of the appointment.

(b) When a person licensed by the commission separates from an agency, the agency shall, within 7 business days:

(1) submit a Separation report (Form F5) to the commission; and

(2) provide a copy to the licensee in a manner prescribed by Texas Occupations Code section 1701.452.

(c) A law enforcement agency that is given a signed consent form shall make the person's employment records available to a hiring law enforcement agency as authorized by Texas Occupations Code section 1701.451.

(d) An agency must retain records kept under this section while the person is appointed and for a minimum of five years after

the licensee's separation date with that agency. The records must be maintained under the control of the agency head or designee in a format readily accessible to the commission.

(e) The effective date of this section is May 1, 2025 ~~[February 1, 2020]~~.

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

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

TRD-202500136

Gregory Stevens

Executive Director

Texas Commission on Law Enforcement

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 936-7700



CHAPTER 219. PRELICENSING, REACTIVATION, TESTS, AND ENDORSEMENTS

37 TAC §219.2

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §219.2, Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police. The proposed amended rule would increase the types of federal criminal investigators that may receive reciprocity to be considered for a license.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by increasing the number of qualified candidates for licensure consideration. There will be no anticipated economic costs to persons required to comply with the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

(1) the proposed rule does not create or eliminate a government program;

(2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;

(4) the proposed rule does not require an increase or decrease in fees paid to the agency;

(5) the proposed rule does not create a new regulation;

(6) the proposed rule does not expand, limit, or repeal an existing regulation;

(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the proposed rule does not positively or adversely affect this state's economy.

The Commission will accept comments regarding the proposed amended rule. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rule-making Authority, and §1701.255, Enrollment Qualifications. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards related to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, public security officer, or telecommunicator. Texas Occupations Code §1701.255 requires the Commission to adopt rules establishing minimum qualifications for a person to enroll in a law enforcement training program.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, and §1701.255, Enrollment Qualifications. No other code, article, or statute is affected by this proposal.

§219.2. Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police.

(a) To be eligible to take a state licensing examination, an out of state, federal criminal investigator, or military police must comply with all provisions of §219.1 of this chapter and this section.

(b) A prospective out-of-state peace officer, federal criminal investigator, or military police applicant for peace officer licensing in Texas must:

(1) meet all statutory licensing requirements of the state of Texas and the rules of the commission;

(2) successfully complete a supplementary peace officer training course, the curriculum of which is developed by the commission, any other courses, as required by the commission; and

(3) successfully pass the Texas Peace Officer Licensing Examination as provided in §219.1 of this chapter.

(c) Requirements (Peace Officers): Applicants who are peace officers from other U.S. states must meet the following requirements:

(1) provide proof of successful completion of a state POST-approved (or state licensing authority) basic police officer training academy;

(2) have honorably served (employed, benefits eligible) as a sworn full time paid peace officer for 2 continuous years. Service time applied to this section must have been obtained following completion of a state POST-approved [POST approved] basic training course;

(3) be subject to continued employment or eligible for re-hire (excluding retirement); and

(4) the applicant's license or certificate must never have been, nor currently be in the process of being, surrendered, suspended, or revoked.

(d) Requirements (Federal): [~~The~~ Texas Code of Criminal Procedure [~~Procedures~~] Article 2A.002 [~~Section 2.122~~] recognizes certain named criminal investigators of the United States as having the authority to enforce selected state laws by virtue of their authority. These individuals are deemed to have the equivalent training for licensure consideration. The Executive Director may identify other federal criminal investigators not listed in Texas Code of Criminal Procedure Article 2A.002 whose training and work experience are deemed to be appropriate for licensure consideration.

(e) Qualifying Federal Officers must:

(1) have successfully completed an approved federal agency law enforcement training course (equivalent course topics and hours) at the time of initial certification or appointment;

(2) have honorably served (employed, benefits eligible) in one of the aforementioned federal full time paid capacities for 2 continuous years. Service time applied to this section must have been obtained following completion of a federal agency law enforcement approved basic training course; and

(3) be subject to continued employment or eligible for re-hire (excluding retirement).

(f) Requirements (Military): Must have a military police military occupation specialty (MOS) or air force specialty code (AFSC) classification approved by the commission.

(g) Qualifying military personnel must provide proof of:

(1) successfully completed basic military police course for branch of military served; and

(2) active duty service for 2 continuous years. Service time applied to this section must have been obtained following completion of an approved basic military police course.

(h) The applicant must make application and submit any required fee(s) in the format currently prescribed by the commission to take the peace officer licensing exam. The applicant must comply with the provisions of §219.1 of this chapter when attempting the licensing exam.

(i) Required documents must accompany the application:

(1) a certified or notarized copy of the basic training certificate for a peace officer, a certified or notarized copy of a federal agent's license or credentials, or a certified or notarized copy of the peace officer license or certificate issued by the state POST or proof of military training;

(2) a notarized statement from the state POST, current employing agency or federal employing agency revealing any disciplinary action(s) that may have been taken against any license or certificate issued by that agency or any pending action;

(3) a notarized statement from each applicant's employing agency confirming time in service as a peace officer or federal officer or agent;

(4) a certified or notarized copy of the applicant's valid state-issued driver's license;

(5) a certified copy of the applicant's military discharge (DD-214), if applicable; and

(6) for applicants without a valid Texas drivers license, a passport-sized color photograph (frontal, shoulders and face), signed with the applicant's full signature on the back of the photograph.

(j) The commission may request that applicants submit a copy of the basic and advanced training curricula for equivalency evaluation and final approval.

(k) All out-of-state, federal, and military applicants will be subject to a search of the National Decertification Database (NDD), NCIC/TCIC, and National Criminal History Databases to establish eligibility.

(l) Any applicant may be denied because of disciplinary action, including suspension or revocation, or misconduct in another jurisdiction.

(m) All documents must bear original certification seals or stamps.

(n) The effective date of this section is May 1, 2025 [~~February 1, 2020~~].

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

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

TRD-202500137

Gregory Stevens

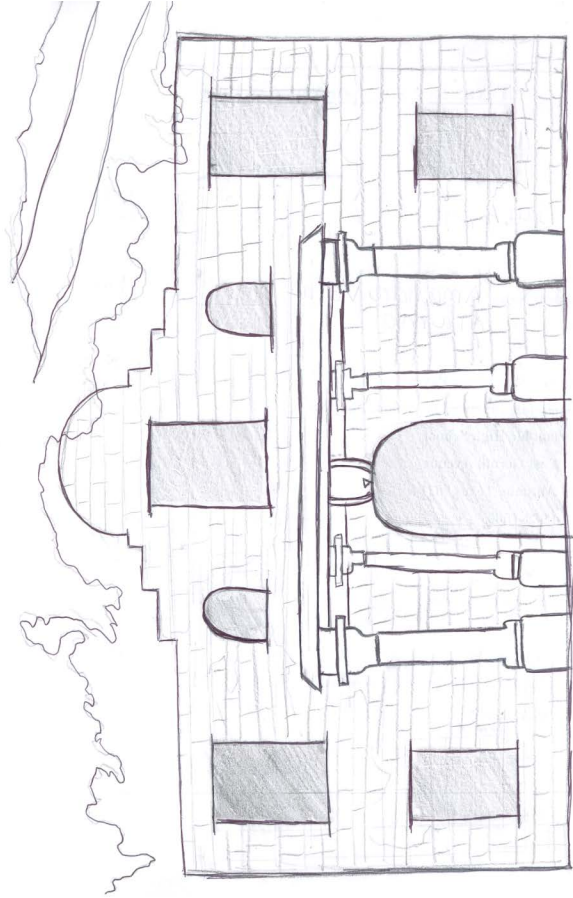
Executive Director

Texas Commission on Law Enforcement

Earliest possible date of adoption: March 2, 2025

For further information, please call: (512) 936-7700





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.

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

TRD-202500147

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



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

Effective date: February 4, 2025

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.

TRD-202500100

Amy F. Cook

Executive Director

Texas Racing Commission

Effective date: February 4, 2025

Proposal publication date: October 4, 2024

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.

Filed with the Office of the Secretary of State on January 15, 2025.

TRD-202500101

Amy F. Cook

Executive Director

Texas Racing Commission

Effective date: February 4, 2025

Proposal publication date: September 20, 2024

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.

TRD-202500102

Amy F. Cook

Executive Director

Texas Racing Commission

Effective date: February 4, 2025

Proposal publication date: October 4, 2024

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.

TRD-202500103

Amy F. Cook

Executive Director

Texas Racing Commission

Effective date: February 4, 2025

Proposal publication date: September 20, 2024

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.

TRD-202500115

Amy F. Cook

Executive Director

Texas Racing Commission

Effective date: February 4, 2025

Proposal publication date: September 20, 2024

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.

Filed with the Office of the Secretary of State on January 15, 2025.

TRD-202500116
Amy F. Cook
Executive Director
Texas Racing Commission
Effective date: February 4, 2025
Proposal publication date: October 4, 2024
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
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: February 6, 2025
Proposal publication date: November 1, 2024
For further information, please call: (737) 867-7585

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.

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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.

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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.

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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

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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.

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500091

Karen Ray
Chief Counsel
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.

Filed with the Office of the Secretary of State on January 13, 2025.

TRD-202500090

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



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.

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

TRD-202500152

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: February 6, 2025

Proposal publication date: August 30, 2024

For further information, please call: (512) 239-6087



REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Department of Licensing and Regulation

Title 16, Part 4

The Texas Department of Licensing and Regulation (Department) files this Notice of Intent to Review to consider for re-adoption, revision, or repeal the chapters listed below, in their entirety, contained in Title 16, Part 4, of the Texas Administrative Code. This review is being conducted in accordance with Texas Government Code §2001.039.

Rule Chapters Under Review

Chapter 59, Continuing Education Requirements

Chapter 60, Procedural Rules of the Commission and the Department

Chapter 70, Industrialized Housing and Buildings

Chapter 72, Professional Employer Organization

Chapter 73, Electricians

During the review, the Department will assess whether the reasons for adopting or readopting the rules in these chapters continue to exist. The Department will review each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current Department procedures. This review is required every four years.

Written comments regarding the review of these chapters may be submitted electronically on the Department's website at (select the appropriate chapter name for your comment); by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication of this notice in the *Texas Register*.

No changes to the rules in these chapters are being proposed at this time. If the Department determines that changes to the rules are necessary as a result of this rule review, the proposed changes will be published in the Proposed Rules section of the *Texas Register* and will be open for public comment before final adoption by the Texas Commission of Licensing and Regulation, the Department's governing body, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500113

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Filed: January 15, 2025



Texas Juvenile Justice Department

Title 37, Part 11

In accordance with §2001.039, Government Code, the Texas Juvenile Justice Department (TJJD) proposes the review of Title 37, Texas Administrative Code, Chapter 359, Memorandums of Understanding.

An assessment will be made by TJJD to determine whether the reasons for adopting the standards in the given chapter continue to exist and whether the standards reflect current legal and policy considerations and current TJJD procedure.

Comments on the review may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

TRD-202500138

Jana Jones

General Counsel

Texas Juvenile Justice Department

Filed: January 16, 2025



Adopted Rule Reviews

Texas Municipal Retirement System

Title 34, Part 6

The Texas Municipal Retirement System (TMRS) adopts the review of Texas Administrative Code (TAC) Title 34, Part 6, Chapter 121, Practice and Procedure Regarding Claims (Chapter 121), pursuant to Texas Government Code, §2001.039.

Notice of the review of Chapter 121 was published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8477). TMRS received no comments concerning the review of this chapter.

TMRS has reviewed Chapter 121 in accordance with Texas Government Code §2001.039, which requires agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. TMRS' Board of Trustees determined that the original reasons for adopting all rules in Chapter 121 continue to exist and readopts Chapter 121.

This concludes the review of 34 TAC, Part 6, Chapter 121.

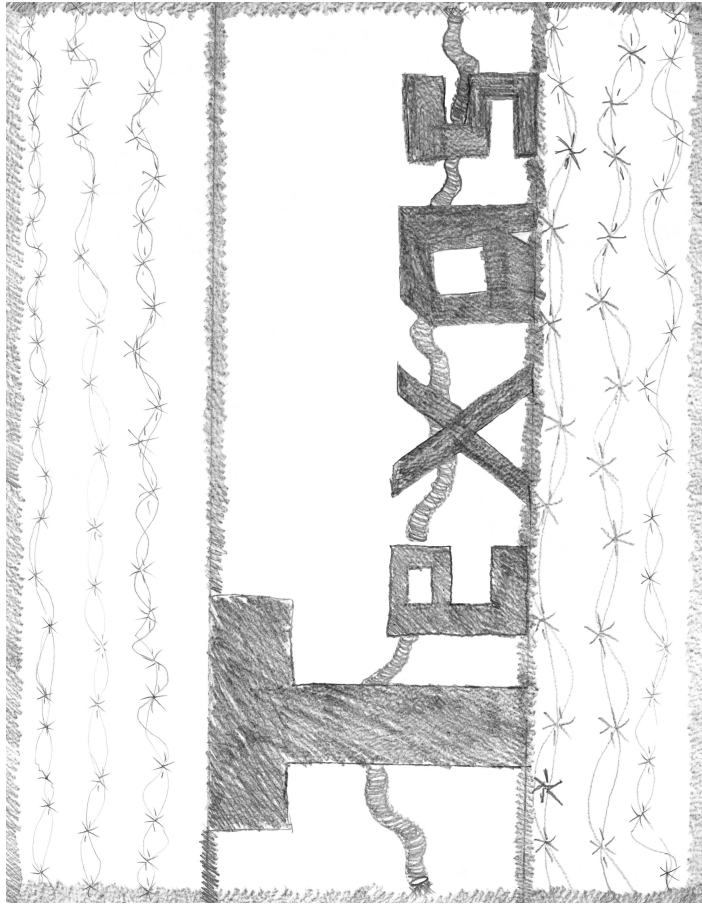
TRD-202500203

Christine M. Sweeney

Chief Legal Officer

Texas Municipal Retirement System

Filed: January 22, 2025



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 26 TAC §745.8906

CCR may issue a:	If CCR determines the applicant:
(1) Full Child-Care Administrator's License (CCAL)	Meets the requirements in §745.8915 of this division (relating to How do I qualify for a full Child-Care Administrator's License (CCAL)?).
(2) Provisional CCAL	(A) Is eligible under §745.8913 of this division (relating to Qualifying for an Administrator's License Through a License from Another State); or (B) Meets the requirements in §745.8925 of this division (relating to Qualifying for a Provisional Child-Care Administrator's License Without Meeting Management and Supervisory Experience).
(3) Full Child-Placing Agency Administrator's License	Meets the requirements in §745.8917 of this division (relating to How do I qualify for a full Child Placing Agency Administrator's License (CPAAL)?).

Figure: 26 TAC §745.8976

If the provisional CCAL is issued:	The permit:
(1) Under §745.8925 of this subchapter (relating to Qualifying for a Provisional Child-Care Administrator's License Without Meeting Management and Supervisory Experience),	(A) Is valid for two years from the date Child Care Regulation (CCR) issues the permit; and (B) Is not eligible for renewal.
(2) Under §745.8913(c) of this subchapter (relating to Qualifying for an Administrator's License Through a License from Another State),	(A) Is valid for 180 days from the date CCR issues the permit; and (B) May be extended one time for an additional 180 days.

Figure: 26 TAC §745.9027(a)

<p>If a military member, military spouse, or military veteran is applying to:</p>	<p>The military member, military spouse, or military veteran must submit:</p>
<p>(1) Become a licensed administrator through alternative licensing under §745.9024(a)(1) of this division (relating to Alternative Licensing for a Military Member, Spouse, or Veteran),</p>	<p>(A) 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;</p> <p>(B) A notarized Affidavit for Applicants for Employment with a Licensed Operation or Registered Child-Care Home (Form 2985) documenting criminal history background information;</p> <p>(C) A completed Request for Background Checks for an Administrator's License (Form 3017) and background check fee;</p> <p>(D) A copy of a valid military identification card that establishes the military member's, military spouse's, or military veteran's status;</p> <p>(E) Proof of the administrator's license, or any other professional or occupational license, held in good standing by another state; and</p> <p>(F) A copy of the regulations pertaining to the license issued by another state or a web address where the regulations can be found.</p>
<p>(2) Become a licensed administrator through alternative licensing under §745.9024(a)(2) of this division,</p>	<p>(A) All of the required documents under subsections (1)(A) - (D) of this section; and</p> <p>(B) Information describing when the military member, military spouse, or military veteran last held an administrator's license in Texas, how long the license was held, and why the license was terminated.</p>

<p>(3) Become a licensed administrator by demonstrating other methods of competency under §745.9025 of this division (relating to Substitute Methods for a Military Member, Spouse, or Veteran to Demonstrate Competency),</p>	<p>(A) A complete application as required under §745.8933(a) of this subchapter (relating to Application Requirements for an Administrator's License), except an application fee is not required; and</p> <p>(B) Any additional documentation that would be useful to determine whether the military member, military spouse, or military veteran meets the examination, experience, or educational qualifications, or whether any of these qualifications should be waived. Child Care Regulation may also request additional documentation to make the determinations.</p>
<p>(4) Act as an administrator without a license (which is only available for a military member or military spouse),</p>	<p>Information that complies with the application requirements under §745.9030(b) of this division (relating to Military Member or Spouse Acting as an Administrator Without a License).</p>

Figure: 26 TAC §745.9030(f)

If the applicant is:	The approval expires:
(1) A military member,	<p>The earlier of:</p> <p>(A) The date the military member is no longer stationed at a military installation in Texas; or</p> <p>(B) The third anniversary of the date CCR notified the military member of the approval to act as an administrator without a license.</p>
(2) A military spouse who remains married to the military member stationed in Texas,	<p>The earlier of:</p> <p>(A) The date the military member is no longer stationed at a military installation in Texas; or</p> <p>(B) The third anniversary of the date CCR notified the military spouse of the approval to act as an administrator without a license.</p>
(3) A military spouse whose status changes, including a divorce, the discharge of the military member from the armed forces, the death of the military member, or similar event,	<p>On the third anniversary of the date CCR notified the military spouse of the approval to act as an administrator without a license.</p>

IN ADDITION

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

Capital Area Rural Transportation System

Request for Qualifications

Capital Area Rural Transportation System (CARTS) is soliciting proposals for the selection of a Comprehensive Design, Architecture, Engineer and Planning Firm to provide professional services for the planning and design through construction documents and construction administration for the expansion of the existing park-and-ride lot at CARTS Bastrop Intermodal Station in Bastrop, Texas.

Request for Qualifications documents will be available on the CARTS Website beginning at 2:00 p.m., Tuesday, February 11, 2025. Go to: <https://www.ridecarts.com/procurement/> select the **Bastrop Station** link and follow the instructions.

A pre-proposal conference (not mandatory but recommended) will be held at 2:00 p.m., Tuesday, March 18, 2025 at CARTS, 5300 Tucker Hill Lane, Cedar Creek, Texas.

The schedule is:

Tuesday, February 11, 2025: 2:00 p.m.- RFQ documents available for download

Tuesday, February 18, 2025: 2:00 p.m.- Pre-proposal conference

Tuesday, February 25, 2025: 5:00 p.m.- Deadline for proposal questions

Tuesday, March 4, 2025: 5:00 p.m.- Responses to questions posted on website

Tuesday, March 18, 2025: 2:00 p.m.- Proposals due at CARTS

Proposals will be evaluated on cost, qualifications, experience, the quality and content of the submittal.

TRD-202500157

David L. Marsh

General Manager

Capital Area Rural Transportation System

Filed: January 21, 2025

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - December 2024

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period December 2024 is \$43.42 per barrel for the three-month period beginning on September 1, 2024, and ending November 30, 2024. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of December 2024, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required

by Tax Code, §201.059, that the average taxable price of gas for reporting period December 2024 is \$1.05 per mcf for the three-month period beginning on September 1, 2024, and ending November 30, 2024. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of December 2024, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of December 2024 is \$69.70 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of December 2024, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of December 2024 is \$3.35 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of December 2024, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-202500158

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Filed: January 21, 2025

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, §303.009, and §304.003 Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/27/25- 02/02/25 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/27/25- 02/02/25 is 18.00% for commercial² credit.

The postjudgment interest rate as prescribed by §304.003 for the period of 02/01/25 - 02/29/25 is 7.50%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202500179

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 22, 2025

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 4, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **March 4, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Aqua Texas, Incorporated; DOCKET NUMBER: 2023-1420-PWS-E; IDENTIFIER: RN102681095; LOCATION: Spring, Harris County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's Well Number 3; PENALTY: \$350; ENFORCEMENT COORDINATOR: Ilia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Best Block, LLC; DOCKET NUMBER: 2023-1133-PWS-E; IDENTIFIER: RN102215407; LOCATION: Alleyton, Colorado County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$101; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(3) COMPANY: City of Crowell; DOCKET NUMBER: 2023-0959-PWS-E; IDENTIFIER: RN101383636; LOCATION: Crowell, Foard County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$2,550; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504;

REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: City of Ralls; DOCKET NUMBER: 2023-0680-PWS-E; IDENTIFIER: RN101388189; LOCATION: Ralls, Crosby County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(e)(2), (h) and (i)(3), by failing to conduct water quality parameter sampling at each of the facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the executive director (ED) for the June 1, 2022 - November 30, 2022, monitoring period; 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2022 - December 31, 2022, monitoring period during which the lead action level was exceeded; and 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2022 - December 31, 2022, monitoring period during which the lead action level was exceeded; PENALTY: \$1,685; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: City of San Antonio; DOCKET NUMBER: 2023-1696-EAQ-E; IDENTIFIER: RN105489553; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §213.4(a)(1) and Edwards Aquifer Protection Plan ID Number 13-09101601, Standard Conditions Number 6, by failing to obtain approval of a modification to an approved Edwards Aquifer Water Pollution Abatement Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: Jaguar Fueling Services, LLC; DOCKET NUMBER: 2024-0222-PST-E; IDENTIFIER: RN111856290; LOCATION: Humble, Texas County; TYPE OF FACILITY: fuel transport and delivery; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to make available a valid, current TCEQ delivery certificate before depositing a regulated substance into a regulated underground storage tank system; PENALTY: \$29,354; ENFORCEMENT COORDINATOR: Rachel Murray, (905) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: John Alexander and Judy Alexander; DOCKET NUMBER: 2024-0362-WR-E; IDENTIFIER: RN111564431; LOCATION: DeBerry, Panola County; TYPE OF FACILITY: retail orchard; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.121, by failing to obtain authorization prior to diverting, impounding, storing, taking, or using state water; PENALTY: \$10,500; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: KM Liquids Terminals LLC; DOCKET NUMBER: 2022-1059-IWD-E; IDENTIFIER: RN103137790; LOCATION: Galena Park, Harris County; TYPE OF FACILITY: special warehousing and storage; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0001662000, Effluent Limitations and Monitoring Requirements Numbers 1 and 2 for Outfall 002, by failing to comply with permitted effluent limitations; PENALTY: \$14,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,850; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Lake Alan Henry Boat and RV Storage Incorporated; DOCKET NUMBER: 2023-1013-PWS-E; IDENTIFIER: RN105673313; LOCATION: Justiceburg, Garza County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: LOOP WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-1033-PWS-E; IDENTIFIER: RN101183036; LOCATION: Loop, Gaines County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter (mg/L) for arsenic and 4 mg/L for fluoride based on a running annual average; 30 TAC §290.117(c)(2)(C), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the executive director (ED) for the January 1, 2020 - December 31, 2022, monitoring period; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to collect water quality parameter samples for the July 1 - 31, 2021, monitoring period; PENALTY: \$3,450; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: LUCKY LADY OIL COMPANY; DOCKET NUMBER: 2023-1108-PST-E; IDENTIFIER: RN102497161; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: common carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to make available a valid, current TCEQ delivery certificate before depositing a regulated substance into a regulated underground storage tank system; PENALTY: \$4,510; ENFORCEMENT COORDINATOR: Leah Johns, (512) 239-0454; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: Natgasoline LLC; DOCKET NUMBER: 2022-1180-IWD-E; IDENTIFIER: RN106586795; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: industrial organic chemical facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0005143000, Outfall Numbers 001 and 101, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with permitted effluent limitations; 30 TAC §305.125 (1) and (18) and TPDES Permit Number WQ0005143000, Other Requirements Number 1, by failing to submit a quarterly progress report by the 14th day following the schedule date; and 30 TAC §305.125(1) and §319.5(b) and TPDES Permit Number WQ0005143000, Outfall Number 001, Effluent Limitations and Monitoring Requirements Number 2, by failing to collect and analyze effluent samples at the intervals specified in the permit; PENALTY: \$27,225; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$10,890; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(13) COMPANY: PAVO RANCH, LP; DOCKET NUMBER: 2023-0928-PWS-E; IDENTIFIER: RN102320033; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public

water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: Pritchett Water Supply Corporation; DOCKET NUMBER: 2023-0943-PWS-E; IDENTIFIER: RN101224608; LOCATION: Gilmer, Upshur County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(c), by failing to ensure all water lines within the distribution system meet the minimum diameter based on the number of connections and failing to ensure waterlines less than two inches in diameter are not installed in the distribution system; 30 TAC §290.46(q)(1)(A)(i), formerly 290.46(q)(2), by failing to institute special precautions as described in the flowchart found in 30 TAC §290.47(e) in the event of low distribution pressure and water outages; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$1,938; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: Quail Creek Municipal Utility District; DOCKET NUMBER: 2023-0767-PWS-E; IDENTIFIER: RN101452068; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; PENALTY: \$1,275; ENFORCEMENT COORDINATOR: De'Shaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(16) COMPANY: SAGERTON WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-0926-PWS-E; IDENTIFIER: RN101218386; LOCATION: Sagerton, Haskell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligram per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$1,587; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(17) COMPANY: Shellie M. Harrison; DOCKET NUMBER: 2024-0121-OSS-E; IDENTIFIER: RN109248930; LOCATION: Fate, Rockwall County; TYPE OF FACILITY: on-site sewage facility (OSSF); RULES VIOLATED: 30 TAC §285.32(b)(1)(D), by failing to ensure inspection and cleanout ports are watertight; 30 TAC §285.33(d)(2)(E) and §285.33(d)(2)(G), by failing to maintain the minimum required surface application area and provide uniform distribution of treated effluent; 30 TAC §285.33(d)(2)(D), by failing to disinfect effluent prior to surface application; 30 TAC §285.33(d)(2)(G)(i), by failing to control OSSF surface application system sprinkler operation by timers set to spray between midnight and 5:00 a.m. when the separation distance between the property line and the edge of the surface application area is less than 20 feet; 30 TAC §285.38(d)(3), by failing to prevent unauthorized access to an OSSF; and 30 TAC §285.70(a)(1) and Texas Health and Safety Code, §366.017(a)(1), by failing to initiate repair of a malfunctioning OSSF system no later than the 30th day

after the date which the owner is notified of the malfunctioning system; PENALTY: \$1,786; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: Steamboat Mountain Water Supply Corporation; DOCKET NUMBER: 2023-1008-PWS-E; IDENTIFIER: RN101450773; LOCATION: Tuscola, Taylor County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligram per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$2,925; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: SUPER FUELS LOMBARDY LLC; DOCKET NUMBER: 2023-1144-PST-E; IDENTIFIER: RN102354040; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.77(b), by failing to submit a report to the TCEQ summarizing the initial abatement steps taken within 20 days after a release of a regulated substance from an underground storage tank system; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Faye Renfro, (512) 239-1833; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(20) COMPANY: TEXAS WATER SYSTEMS, INCORPORATED; DOCKET NUMBER: 2023-0694-PWS-E; IDENTIFIER: RN101376952; LOCATION: Ore City, Upshur County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(B), by failing to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface; 30 TAC §290.41(c)(3)(J), by failing to provide the well with a concrete sealing block that extends a minimum of three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away from the wellhead at not less than 0.25 inches per foot; 30 TAC §290.41(c)(3)(N), by failing to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data; 30 TAC §290.43(c)(3), by failing to maintain the facility's storage tanks in strict accordance with current American Water Works Association (AWWA) standards with an overflow pipe that terminates downward with a gravity-hinged and weighted cover tightly fitted with no gap over 1/16 inch; 30 TAC §290.43(c)(4), by failing to provide all ground storage tanks (GSTs) with a liquid level indicator; 30 TAC §290.43(c)(8), by failing to ensure that all clearwells, GSTs, standpipes, and elevated storage tanks are painted, disinfected, and maintained in strict accordance with current AWWA standards; 30 TAC §290.44(c), by failing to ensure all waterlines within the distribution system meet the minimum waterline size, measured in inches in diameter, based on the number of connection; 30 TAC §290.45(b)(1)(C)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; 30 TAC §290.109(d)(1)(A), by failing to collect routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 12473 for calendar year 2023; PENALTY: \$6,156; ENFORCEMENT

COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(21) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2023-1258-MLM-E; IDENTIFIER: RN101251403; LOCATION: Bandera, Bandera County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(ii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide the minimum total storage capacity; 30 TAC §290.45(b)(1)(D)(iii) and THSC, §341.0315(c), by failing to provide the minimum service pump capacity; 30 TAC §290.45(b)(1)(D)(iv) and THSC, §341.0315(c), by failing to provide the minimum pressure tank capacity; and 30 TAC §291.93(3)(A) and TWC, §13.139(d), by failing to provide a written planning report for a utility possessing a Certificate of Convenience and Necessity that has reached or exceeded 85% of all or part of its capacity; PENALTY: \$19,700; ENFORCEMENT COORDINATOR: Rachel Frey, (512) 239-4330; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: Vopak Terminal Deer Park Incorporated; DOCKET NUMBER: 2022-1166-AIR-E; IDENTIFIER: RN100225093; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: storage terminal; RULES VIOLATED: 30 TAC §§101.20(2), 116.115(c) and 122.143(4), 40 Code of Federal Regulations §63.112b(a)(1)(i), New Source Review (NSR) Permit Number 466A, Special Conditions (SC) Number 30, Federal Operating Permit (FOP) Number O1068, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 16, and Texas Health and Safety Code (THSC), §382.085(b), by failing to refill a tank as rapidly as possible within the specified limits; 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 466A, SC Number 6, FOP Number O1068, GTC and STC Number 16, and THSC, §382.085(b), by failing to comply with the tank withdrawal rate; and 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 466A, SC Number 13, FOP Number O1068, GTC and STC Number 16, and THSC, §382.085(b), by failing to maintain chemicals in storage tanks at a temperature less than or equal to the control temperature; PENALTY: \$34,500; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

TRD-202500159
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: January 21, 2025

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Enforcement Orders

An agreed order was adopted regarding ABRAXAS CORPORATION, Docket No. 2021-0206-MWD-E on January 16, 2025, assessing \$40,395 in administrative penalties with \$39,195 deferred. Information concerning any aspect of this order may be obtained by contacting Ben Warms, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Quanah, Docket No. 2022-0163-MWD-E on January 16, 2025, assessing \$29,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding OXY USA Inc., Docket No. 2022-0295-AIR-E on January 16, 2025, assessing \$219,105 in administrative penalties with \$43,821 deferred. Information concerning any

aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Owens Corning Insulating Systems, LLC, Docket No. 2022-0422-AIR-E on January 16, 2025, assessing \$21,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Najwa M. Hammad dba BJ's Food Store, Docket No. 2022-0748-PST-E on January 16, 2025, assessing \$4,340 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding K-Solv Chemicals, LLC, Docket No. 2022-0750-AIR-E on January 16, 2025, assessing \$164,996 in administrative penalties with \$32,999 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Six Flags Entertainment Corporation dba Six Flags Fiesta Texas, Docket No. 2022-0846-PST-E on January 16, 2025, assessing \$31,248 in administrative penalties with \$6,249 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding SORT Valley LLC dba Mini Max 4, Docket No. 2022-0849-PST-E on January 16, 2025, assessing \$6,619 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding A DEEL'S BUSINESS INC., Docket No. 2022-0936-PST-E on January 16, 2025, assessing \$5,386 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Tenaha, Docket No. 2022-0960-MWD-E on January 16, 2025, assessing \$161,825 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Products Operating LLC, Docket No. 2022-1103-IWD-E on January 16, 2025, assessing \$15,975 in administrative penalties with \$3,195 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding CoastalPlains Estate, LLC, Docket No. 2023-0207-WQ-E on January 16, 2025, assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Solorzano, Angel, Docket No. 2023-0331-LII-E on January 16, 2025, assessing \$864 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ellwood Texas Forge Navasota, LLC, Docket No. 2023-0675-IWD-E on January 16, 2025, assessing \$17,875 in administrative penalties with \$3,575 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Mohammad Saeed dba Haltom Stop, Docket No. 2023-1218-PST-E on January 16, 2025, assessing \$9,000 in administrative penalties with \$1,800 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CARTHAGE HARDWOODS LLC, Docket No. 2023-1781-WQ-E on January 16, 2025, assessing \$55,000 in administrative penalties with \$11,000 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2024-0139-PWS-E on January 16, 2025, assessing \$84,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Green Creek Water Supply Corporation, Docket No. 2024-0211-PWS-E on January 16, 2025, assessing \$2,625 in administrative penalties with \$2,625 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MIDWAY WATER UTILITIES, INC., Docket No. 2024-0215-MLM-E on January 16, 2025, assessing \$18,199 in administrative penalties with \$3,639 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding SORT Valley LLC dba Minimax 2, Docket No. 2024-0296-PST-E on January 16, 2025, assessing \$6,620 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ATX Liberty Concrete LLC, Docket No. 2024-0364-EAQ-E on January 16, 2025, assessing \$13,500 in administrative penalties with \$2,700 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding POPE AND COBB CORPORATION, Docket No. 2024-0518-MWD-E on January 16, 2025, assessing \$25,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PANJWANI ENERGY, LLC, Docket No. 2024-1005-WQ-E on January 16, 2025, assessing \$10,000 in administrative penalties with \$2,000 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GULF COAST CONCRETE AND SHELL, INC., Docket No. 2024-1058-WQ-E on January 16, 2025, assessing \$30,307 in administrative penalties with \$6,061 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GULF COAST CONCRETE AND SHELL, INC., Docket No. 2024-1059-WQ-E on January 16, 2025, assessing \$35,358 in administrative penalties with \$7,071 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Richmond American Homes of Texas, Inc., Docket No. 2024-1114-WQ-E on January 16, 2025, assessing \$12,500 in administrative penalties with \$2,500 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Five S Group, L.L.C., Docket No. 2024-1196-WQ-E on January 16, 2025, assessing \$22,500 in administrative penalties with \$4,500 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding South Garza Water Supply Corporation and CLIFFORD & CLYDE KITTEN, L.P., Docket No. 2024-1198-PWS-E on January 16, 2025, assessing \$1,437 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting De'Shaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Missouri City, Docket No. 2024-1268-MWD-E on January 16, 2025, assessing \$34,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Manvel Utilities Limited Partnership, Docket No. 2024-1290-MWD-E on January 16, 2025, assessing \$16,875 in administrative penalties with \$3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Sarah Castillo, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202500195
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 22, 2025

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Enforcement Orders

An agreed order was adopted regarding GenTex Power Corporation, Docket No. 2022-0854-AIR-E on January 21, 2025 assessing \$7,050 in administrative penalties with \$1,410 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart, Docket No. 2022-1051-PST-E on January 21, 2025 assessing \$6,750 in administrative penalties with \$1,350 deferred. Information concerning any aspect of this order may be obtained by contacting Melissa Anderson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SILVER SAND FARM PROPERTIES, LTD., Docket No. 2022-1542-PST-E on January 21, 2025 assessing \$2,872 in administrative penalties with \$574 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BRYSON DEVELOPMENT LLC, Docket No. 2023-0150-EAQ-E on January 21, 2025 assessing \$1,625 in administrative penalties with \$325 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding H2ECO Bulk LLC, Docket No. 2023-0608-PWS-E on January 21, 2025 assessing \$1,259 in administrative penalties with \$251 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alphonsa Enterprise, LLC dba King Food Store, Docket No. 2023-0818-PST-E on January 21, 2025 assessing \$5,454 in administrative penalties with \$1,090 deferred. Information concerning any aspect of this order may be obtained by contacting Eresha DeSilva, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Realty Capital Argyle 114, Ltd., Docket No. 2023-0947-WQ-E on January 21, 2025 assessing \$1,875 in administrative penalties with \$375 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-0976-PWS-E on January 21, 2025 assessing \$4,365 in administrative penalties with \$873 deferred. Information concerning any aspect of this order may be obtained by contacting Ilia Perez-Ramirez,

Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INV Nylon Chemicals Americas, LLC, Docket No. 2023-1019-WDW-E on January 21, 2025 assessing \$4,235 in administrative penalties with \$847 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Development, Inc., Docket No. 2023-1055-PWS-E on January 21, 2025 assessing \$780 in administrative penalties with \$156 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JIS LLC dba I-35 Texaco, Docket No. 2023-1065-PST-E on January 21, 2025 assessing \$3,681 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alexander Kepczyk Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding WICHITA VALLEY Water Supply Corporation Docket No. 2023-1710-PWS-E on January 21, 2025 assessing \$3,925 in administrative penalties with \$785 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Frey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cswr-Texas Utility Operating Company Llc, Docket No. 2024-0055-PWS-E on January 21, 2025 assessing \$2,055 in administrative penalties with \$411 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Caston, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Haynie Leadership Group, Inc. dba A and V Water, Docket No. 2024-0166-PWS-E on January 21, 2025 assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AT&T CORP. dba AT&T Adams 1 Frisco, Docket No. 2024-0259-PST-E on January 21, 2025 assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CAMP OLYMPIA, INC., Docket No. 2024-0299-MWD-E on January 21, 2025 assessing \$3,825 in administrative penalties with \$765 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Magnolia, Docket No. 2024-0340-PWS-E on January 21, 2025 assessing \$2,142 in administrative penalties with \$428 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforce-

ment Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding REPUBLIC WASTE SERVICES OF TEXAS, LTD. dba Republic Services of Lubbock, Docket No. 2024-0363-MSW-E on January 21, 2025 assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rhome Estates LLC, Docket No. 2024-0411-PWS-E on January 21, 2025 assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alliance Community Fellowship, Docket No. 2024-0412-PWS-E on January 21, 2025 assessing \$1,750 in administrative penalties with \$350 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2024-0462-PWS-E on January 21, 2025 assessing \$3,000 in administrative penalties with \$600 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Nerro Supply, LLC, Docket No. 2024-0469-PWS-E on January 21, 2025 assessing \$150 in administrative penalties with \$30 deferred. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Utilities, L.P., Docket No. 2024-0493-PWS-E on January 21, 2025 assessing \$2,055 in administrative penalties with \$411 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Caston, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kevin Drover dba Shafter Mine and Aurcana Silver Corporation dba Shafter Mine, Docket No. 2024-0552-PWS-E on January 21, 2025 assessing \$6,241 in administrative penalties with \$1,248 deferred. Information concerning any aspect of this order may be obtained by contacting Ilia Perez-Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Washburn Community Water Supply Corporation, Docket No. 2024-0660-PWS-E on January 21, 2025 assessing \$1,920 in administrative penalties with \$384 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Chandler, Docket No. 2024-0663-PWS-E on January 21, 2025 assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BERRY UTILITY CONTRACTORS LLC, Docket No. 2024-0711-WOC-E on January 21, 2025 assessing \$1,034 in administrative penalties with \$206 deferred. Information concerning any aspect of this order may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RPM Water Supply Corporation, Docket No. 2024-0847-PWS-E on January 21, 2025 assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the Town of Providence Village, Docket No. 2024-1212-WQ-E on January 21, 2025 assessing \$1,625 in administrative penalties with \$325 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AUSTIN READY-MIX, LLC dba West Henly Concrete Batch Plant, Docket No. 2024-1412-MLM-E on January 21, 2025 assessing \$4,200 in administrative penalties with \$840 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Federal Aviation Administration, Docket No. 2024-1480-PST-E on January 21, 2025 assessing \$2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202500198

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of an Application to Amend a Certificate of Adjudication Application No. 13923

Notices Issued January 17, 2025

Cattlemen Solar Park II LLC seeks a temporary water use permit to divert and use not to exceed 19.25 acre-feet of water, within a period of 19 months, from a point on an unnamed tributary of the Brazos River, Brazos River Basin, at a maximum diversion rate of 2.67 cfs (1,200 gpm), for industrial purposes in Milam County. More information on the application and how to participate in the permitting process is given below.

The application was received on June 14, 2023, and partial fees were received on June 28, 2023. Additional information was received March 22, 2024, April 17, 2024, April 18, 2024, June 13, 2024, July 8, 2024, and July 17, 2024. Additional fees were received on July 15, 2024. The application was declared administratively complete and filed with the Office of the Chief Clerk on July 29, 2024.

The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would

include special conditions including, but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ webpage at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by February 4, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by February 4, 2025. The Executive Director may approve the application unless a written request for a contested case hearing is filed by February 4, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRTP 13923 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202500191

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of District Petition - TCEQ Internal Control No. D-01022025-002

Notice issued January 22, 2025

TCEQ Internal Control No. D-01022025-002: M.W. Development, LLC, a Texas limited liability company (Petitioner) filed a petition for

creation of Mineral Wells Municipal Management District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapter 49 of the Texas Water Code; Chapter 375 of the Local Government Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the holders of title of the land within the proposed District; (2) there is one lienholder, DBC Wells Development, LLC, on the property to be included in the proposed District and information provided indicates that the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 115.503 acres located within Palo Pinto County, Texas, and (4) all of the land within the proposed District is within the corporate boundaries of the City of Mineral Wells, Texas.

By Resolution No. 2024-15, passed and adopted on October 1, 2024, the City of Mineral Wells, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Local Government Code 375.022(c)(6). The petition further states that the purposes of and the general nature of the work proposed to be done by the proposed District shall be: (1) the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential purposes; (2) the construction, acquisition, improvement, extension, maintenance and operation of works, improvements facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage; (3) to control, abate and amend local storm waters or other harmful excesses of waters; and (4) such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, systems, plants and enterprises as shall be consistent with all of the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$27,750,000 (\$15,855,000 for water, sewer, and drainage plus \$11,895,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For in-

formation concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500192

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of District Petition - TCEQ Internal Control No.
D-12062024-014

Notice issued January 22, 2025

TCEQ Internal Control No. D-12062024-014: BGM Land Investments, LTD., a Texas limited partnership, (Petitioner) filed a petition for creation of Waller County Municipal Utility District No. 42 (District) of Waller County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 416.439 acres located within Waller County, Texas; and (4) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Pattison.

By Ordinance No. 185-2024, passed, approved, and adopted on September 12, 2024, the City of Pattison, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, enterprises, and road facilities, and park and recreational facilities as shall be consonant with all of the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$104,025,000. The financial analysis in the application was based on an estimated \$103,800,000 (\$67,500,000 for water, wastewater, and drainage plus \$10,800,000 for roads plus \$25,500,000 for recreation) at the time of submittal.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the no-

tice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500194

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of District Petition - TCEQ Internal Control No. D-12182024-045

Notice issued January 22, 2025

TCEQ Internal Control No. D-12182024-045: Danny Lorberau and Tonya Lorberau, individually, and Lennar Homes of Texas Land and Construction, LTD., a Texas limited partnership, (Petitioners) filed a petition for creation of Sinton Ranch Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 224.596 acres located within San Patricio County, Texas; and (4) all of the land within the proposed District is within the extraterritorial jurisdiction of the City of Sinton. By Resolution No. 20240618-1, passed and approved on June 18, 2024, the City of Sinton, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will design, construct, acquire, improve, extend, maintain, operate, convey, finance, and issue bonds for: (1) an adequate and efficient water works and sanitary sewer system for domestic purposes; (2) works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District, and to control, abate, and amend local storm waters or other harmful excesses of waters; (3) roads and improvements in aid of roads; and (4) such other additional facilities, systems, plants, enterprises, as may be

consistent with any or all the purposes for which the proposed District is created. Additionally, the Petitioners request that the proposed District be granted the power, under the authority of Article III, Section 52 of the Texas Constitution, as amended, to design, acquire, construct, finance, issue bonds for, and convey to the State, a county, or a municipality for operation and maintenance for one or more roads, or any improvement in aid of such roads, pursuant to Section 54.234 of the Texas Water Code, as amended. The proposed District is also requesting approval of a fire protection plan pursuant to Section 49.351 of the Texas Water Code

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$45,790,000 (\$36,510,000 for water, wastewater, and drainage and \$9,280,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500193

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO

when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 4, 2025**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on March 4, 2025**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission **in writing**.

(1) COMPANY: City of Cuney; DOCKET NUMBER: 2022-0021-MWD-E; TCEQ ID NUMBER: RN101609469; LOCATION: 495 County Road 3314, Cuney, Cherokee County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0013728002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (17) and §319.7(d), and TPDES Permit Number WQ0013728002, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results at intervals specified in the permit; and TWC, §26.121(a)(1) and 30 TAC §305.65 and §305.125(2), by failing to maintain authorization to discharge wastewater into or adjacent to any water in the state; PENALTY: \$33,150; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202500168

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 21, 2025



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Francisco Rojas dba Galaxy Tires SOAH Docket No. 582-25-09795 TCEQ Docket No. 2021-1448-MSW-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. - February 13, 2025

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed January 30, 2024 concerning assessing administrative penalties against and requiring certain actions of Francisco Rojas dba Galaxy Tires, for violations in Dallas County, Texas, of: Tex. Health & Safety Code §36.112(a) and 30 Texas Administrative Code §§328.56(a)(1), (b), (c), (d)(2), (d)(3) and (d)(4), 328.57(c)(1), 328.59(b)(1), and 328.60(a).

The hearing will allow Francisco Rojas dba Galaxy Tires, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Francisco Rojas dba Galaxy Tires, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **Francisco Rojas dba Galaxy Tires** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. Francisco Rojas dba Galaxy Tires, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and 30 Texas Administrative Code chs. 70 and 328; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §§70.108 and 70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Georgette Oden, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: January 16, 2025

TRD-202500204

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Melissa McWhirter-Wiley SOAH Docket No. 582-25-09794 TCEQ Docket No. 2024-0111-WQ-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m.- February 13, 2025

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 13, 2024 concerning assessing administrative penalties against and requiring certain actions of Melissa McWhirter-Wiley, for violations in Hunt County, Texas, of: Tex. Water Code §26.121(a)(2), 30 Texas Administrative Code §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c).

The hearing will allow Melissa McWhirter-Wiley, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The

first convened session of the hearing will be to establish jurisdiction, afford Melissa McWhirter-Wiley, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing.

Upon failure of Melissa McWhirter-Wiley to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. Melissa McWhirter-Wiley, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code § 7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 281; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §§70.108 and 70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: January 16, 2025

TRD-202500205

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2025



Office of the Governor

Notice of Available Funding Opportunities

Office of the Governor, Public Safety Office (PSO)

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2026. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://egrants.gov.texas.gov/fundingopp>).

- Border Prosecution Unit (BPU) - The purpose of this announcement is to solicit applications or projects that prosecute border crimes during state fiscal years 2026 and 2027. The purpose of this solicitation is to provide prosecution resources for District and County Attorneys along the Texas-Mexico border and for counties that are significantly affected by border crime.

- Border Zone Fire Department - The purpose of this announcement is to solicit applications from professional fire departments along the Texas-Mexico border region for specialized equipment, maintenance, and medical supplies to support emergency services associated with the execution of border security activities. associated with deterring crimes occurring in the geographic area defined in Article IX, Section 7.10 of the General Appropriations Act.

- Nonprofit Security Grant Program (NSGP) - The purpose of this announcement is to solicit applications for projects that support physical security enhancements and other security activities to nonprofit organizations that are at high risk of a terrorist attack based on the nonprofit organization's ideology, beliefs or mission. The Nonprofit Security Grant Program (NSGP) seeks to integrate the preparedness activities of nonprofit organizations that are at high risk of a terrorist attack with broader state and local preparedness efforts. The NSGP also serves to promote emergency preparedness coordination and collaboration activities between public and private entities.

- Operation Lone Star (OLS) Grant Program - The purpose of this announcement is to solicit applications that enhance interagency border security operations supporting Operation Lone Star including the facilitation of directed actions to deter and interdict criminal activity.

- Texas Anti-Grant (TAG) Program - The purpose of this announcement is to solicit applications for preselected projects that support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

TRD-202500112

Angie Martin

Director

Office of the Governor

Filed: January 15, 2025



Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Updates to Medicaid Payment Rates for Calendar Fee Review, Medical Policy Reviews, and Annual HCPCS Updates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 14th, 2025, at 9:00 a.m., to receive public comments on proposed updates to Calendar Fee Review, Medical Policy Reviews, and Annual HCPCS Updates.

This hearing will be conducted as an in-person and online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following link:

Registration URL:

<https://attendee.gotowebinar.com/register/8877269310501886815>

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing-in by phone will be provided after you register.

Members of the public may attend the rate hearing in person, which will be held in the Public Hearing Room 1.401, 1.402, 1.403 & 1.404 in the North Austin Complex located at 4601 W Guadalupe Street, Austin, Texas, or they may access a live stream of the meeting at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. For the live stream, select the "North Austin Complex Live" tab. A recording of the hearing will be archived and accessible on demand at <https://www.hhs.texas.gov/about/live-archived-meetings> under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at <https://www.hhs.texas.gov/about/meetings-events>.

Proposal. The effective date of the proposed payment rates for the topics presented during the rate hearing will be as follows:

Effective January 01, 2025

Medical Policy Review:

- End-Stage Renal Disease (ESRD) Drug- J0879

Annual HCPCS Updates:

- Physician Administered Drugs- Type of Service (TOS) 1 (Medical Services);

- Non-Drugs- TOS 1;

- Surgery Services- TOS 2 (Surgery Services), and TOS 8 (Assistant Surgery);

- Radiological Services - TOS 4 (Radiology), TOS I (Professional Component), and TOS T (Technical Component);

- Clinical Diagnostic Laboratory Services - TOS 5 (Laboratory);

- Radiation Therapy- TOS 6 (Radiation Therapy), TOS I (Professional Component), TOS T (Technical Component); and

- Durable Medical Equipment, Prosthetics, Orthotics, and Supplies - TOS 9 (Other Medical Items or Services), TOS J (DME Purchase-New), and TOS L (DME Rental-Monthly)

Effective March 01, 2025

Medical Policy Review:

- Title V MCH FFS Program Additions: 86593 & J0561

Effective April 01, 2025

Calendar Fee Review:

- Long-Acting Reversible Contraceptives (LARCs)

Medical Policy Review:

- Wound Care: Q Codes

- SB 1921- Wound Care Education

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.8023, Reimbursement Methodology for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS);

Section 355.8085, Reimbursement Methodology for Physicians and Other Practitioners;

Section 355.8441, Reimbursement Methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services (also known as Texas Health Steps);

Section 355.8561, Billing (Reimbursement Methodology for the Medical Transportation Program);

Section 355.8581, Reimbursement Methodology for Family Planning Services;

Section 355.8610, Reimbursement for Clinical Laboratory Services;

Section 355.8620, Reimbursement Methodology for Services provided in Indian Health Service and Tribal facilities; and

Section 355.8641, Reimbursement Methodology for the Women's Health Program

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available at <https://pfd.hhs.texas.gov/rate-packets> on or before January 31, 2025. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7401; by fax at (512) 730-7475; or by e-mail at PFDAcuteCare@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or

by e-mail to PFDAcuteCare@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 Guadalupe St., Austin, Texas 78751.

Preferred Communication. For quickest response please use e-mail or phone if possible for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202500187

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 22, 2025

◆ ◆ ◆
Department of State Health Services

Licensing Actions for Radioactive Materials

During the second half of November 2024, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Radiation Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radioactive Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: (512) 206-3760, or by e-mail to: RAMlicensing@dshs.texas.gov.

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HOUSTON	BAYTOWN MEDICAL CENTER LP DBA BMC-NORTH	L07245	HOUSTON	00	11/21/24
THROUGHOUT TX	SAMOO ENGINEERING LLC	L07244	HOUSTON	00	11/21/24
THROUGHOUT TX	FARROUTDOORS INC DBA SBF CONSTRUCTION AND PAVING	L07243	TEMPLE	00	11/18/24

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AMARILLO	NORTHWEST TEXAS HEALTHCARE SYSTEM INC DBA NORTHWEST TEXAS HEALTHCARE SYSTEM	L02054	AMARILLO	95	11/22/24
AUSTIN	UROLOGY AUSTIN PLLC	L06798	AUSTIN	06	11/27/24
BAYTOWN	EXXON MOBIL CORPORATION	L01135	BAYTOWN	99	11/19/24
BISHOP	TICONA POLYMERS INC	L02441	BISHOP	74	11/18/24
CORPUS CHRISTI	RADIOLOGY IMAGING CORPUS CHRISTI PLLC	L05182	CORPUS CHRISTI	56	11/18/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

DALLAS	TEXAS INSTRUMENTS INC	L05048	DALLAS	23	11/22/24
DALLAS	UT SOUTHWESTERN MEDICAL CENTER	L05947	DALLAS	61	11/18/24
EARTH	SAVAGE-TOLK CORPORATION	L02672	EARTH	31	11/15/24
EL PASO	EL PASO CHILDRENS HOSPITAL CORPORATION	L06452	EL PASO	03	11/20/24
EL PASO	IONETIX CORPORATION	L07100	EL PASO	04	11/21/24
FORT WORTH	TEXAS HEALTH HARRIS METHODIST HOSPITAL ALLIANCE	L06484	FORT WORTH	06	11/15/24
GARLAND	E+PET IMAGING XII LP DBA PET IMAGING OF GARLAND	L05875	GARLAND	12	11/18/24
HOUSTON	THE METHODIST HOSPITAL DBA HOUSTON METHODIST	L06948	HOUSTON	08	11/19/24
HOUSTON	HALLIBURTON ENERGY SERVICES INC	L00442	HOUSTON	151	11/20/24
HOUSTON	HALLIBURTON ENERGY SERVICES INC	L00442	HOUSTON	152	11/21/24
KAUFMAN	TEXAS HEALTH PRESBYTERIAN HOSPITAL OF KAUFMAN	L03337	KAUFMAN	24	11/27/24
LUFKIN	EAST TEXAS HEMATOLOGY AND ONCOLOGY CLINIC PA	L06039	LUFKIN	09	11/19/24
MINERAL WELLS	PARKER HANNIFIN CORPORATION	L07153	MINERAL WELLS	03	11/15/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

PARIS	ADVANCED HEART CARE PA	L05290	PARIS	45	11/18/24
PARIS	ADVANCED HEART CARE PA	L05290	PARIS	46	11/21/24
PLANO	COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY LP DBA MEDICAL CITY PLANO	L02032	PLANO	132	11/15/24
ROUND ROCK	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP DBA ST DAVIDS ROUND ROCK MEDICAL CENTER	L03469	ROUND ROCK	75	11/26/24
SAN ANTONIO	VHS SAN ANTONIO IMAGING PARTNERS LP BAPTIST M&S IMAGING CENTER	L04506	SAN ANTONIO	103	11/21/24
SAN ANTONIO	METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO LTD LLP	L00594	SAN ANTONIO	393	11/19/24
TEXAS CITY	VALERO REFINING - TEXAS LP	L02578	TEXAS CITY	46	11/20/24
THROUGHOUT TX	NONDESTRUCTIVE & VISUAL INSPECTION LLC	L06162	CARTHAGE	28	11/21/24
THROUGHOUT TX	METALOGIC INSPECTION SERVICES (SOUTHWEST) LLC	L06772	HOUSTON	19	11/27/24
THROUGHOUT TX	INTERTEK ASSET INTEGRITY MANAGEMENT INC	L06801	HOUSTON	25	11/15/24
THROUGHOUT TX	INTERTEK ASSET INTEGRITY MANAGEMENT INC	L06801	HOUSTON	26	11/22/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

THROUGHOUT TX	ARC INSPECTION SERVICES LLC	L06864	KRUM	08	11/19/24
THROUGHOUT TX	WELD SPEC INC	L05426	LUMBERTON	127	11/19/24
THROUGHOUT TX	RK HALL LLC	L04886	PARIS	14	11/20/24
THROUGHOUT TX	STRONGHOLD INSPECTION LTD	L06918	PASADENA	12	11/18/24
THROUGHOUT TX	TECHCORR USA MANAGEMENT LLC DBA AUT SPECIALISTS	L05972	PASADENA	136	11/20/24
THROUGHOUT TX	CALIBRATION SOLUTIONS LLC	L06447	PFLUGERVILLE	08	11/20/24

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
SUGAR LAND	METHODIST HEALTH CENTERS DBA HOUSTON METHODIST SUGAR LAND HOSPITAL	L05788	SUGAR LAND	63	11/20/24
THROUGHOUT TX	AMARILLO TESTING & ENGINEERING INC DBA TEXOMA ENGINEERING SERVICES LLC	L02658	AMARILLO	25	11/21/24
THROUGHOUT TX	FEHR'S METAL BUILDING CONSTRUCTION LP	L06615	SEMINOLE	04	11/15/24
THROUGHOUT TX	BRAUN INTERTEC CORPORATION	L06681	TYLER	25	11/20/24

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HOUSTON	INSIGHT HEALTH CORP DBA RAYUS RADIOLOGY	L05504	HOUSTON	30	11/27/24

TRD-202500190
Cynthia Hernandez
General Counsel
Department of State Health Services
Filed: January 22, 2025

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application for incorporation in the state of Texas for The Homeowners Reciprocal Exchange, a domestic reciprocal. The home office is in Houston, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202500114
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: January 15, 2025

◆ ◆ ◆
Texas Department of Licensing and Regulation

Notice of Vacancies on Air Conditioning and Refrigeration Contractors Advisory Board

The Texas Department of Licensing and Regulation (Department) announces three vacancies on the Air Conditioning and Refrigeration Contractors Advisory Board (Board) established by Texas Occupations Code, Chapter 1302. The purpose of the Board is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) in adopting rules, administering, and enforcing the Occupations Code covering Air Conditioning and Refrigeration, and setting fees. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- building contractor who is principally engaged in home construction and is a member of a statewide building trade association;
- official of a municipality with a population greater than 250,000; and
- any class licensed contractor AS general contractors d/b/a refrigeration express.

The Board consists of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. At least one appointed Board member must be an air conditioning and refrigeration contractor who employs organized labor. The executive director of the Department and the chief administrator of Texas Occupations Code, Chapter 1302 serve as ex officio, nonvoting members of the Board. Members serve staggered six-year terms with the terms of two appointed members expiring on February 1 of each odd-numbered year. The Board is composed of the following members:

1. one official of a municipality with a population of more than 250,000;
2. one official of a municipality with a population of not more than 250,000;
3. five full-time licensed air conditioning and refrigeration contractors meeting the following requirements:
 - one member who holds a Class A license and practices in a municipality with a population of more than 250,000;
 - one member who holds a Class B license and practices in a municipality with a population of more than 250,000;
 - one member who holds a Class A license and practices in a municipality with a population of more than 25,000 but not more than 250,000;
 - one member who holds a Class B license and practices in a municipality with a population of not more than 25,000; and
 - one member who holds a license of any classification under this chapter, is principally engaged in air conditioning and refrigeration contracting, and practices in a municipality;
4. one building contractor who is principally engaged in home construction and is a member of a statewide building trade association; and
5. one public member.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by e-mail to advisory.boards@tdlr.texas.gov.

These are not paid positions and there is no compensation or reimbursement for serving on the Board.

TRD-202500173

Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Notice of Vacancies on Board of Boiler Rules

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Board of Boiler Rules (Board) established by 16 Texas Administrative Code §110.14. The purpose of the Board of Boiler Rules is to provide advice and recommendations to the commission in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and appurtenances. **This announcement is for:**

- one member representing person who owns or uses boilers in this state; and

- one member representing a labor union.

The Board is composed of eleven members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year. The Board is composed of the following members:

1. three members representing persons who own or use boilers in this state;
2. three members representing companies that insure boilers in this state;
3. one member representing boiler manufacturers or installers;
4. one member representing organizations that repair or alter boilers in this state;
5. one member representing a labor union; and
6. two public members.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

Issued in Austin, Texas this January 31, 2025.

TRD-202500174
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Notice of Vacancies on Code Enforcement Officers Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces three vacancies on the Code Enforcement Officers Advisory Committee (Committee) established by 16 Texas Administrative Code §62.65. The purpose of the Code Enforcement Officers Advisory Committee is to provide advice and recommendations to the Department on technical matters relevant to the administration of this chapter. **This announcement is for:**

- one registered code enforcement officer;

- one consumer, of which is a certified building official; and**
- one structural engineer or licensed architect.**

The Committee is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year. The Committee is composed of the following members:

- (1) five registered code enforcement officers;
- (2) one structural engineer or licensed architect;
- (3) two consumers, one of which must be a certified building official; and
- (4) one person involved in the education and training of code enforcement officers.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Committee.

Issued in Austin, Texas this January 31, 2025.

TRD-202500170
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Notice of Vacancies on Hearing Instrument Fitters and Dispensers Advisory Board

The Texas Department of Licensing and Regulation (Department) announces four vacancies on the Hearing Instrument Fitters and Dispensers Advisory Board (Board) established by 16 Texas Administrative Code §112.10. The purpose of the Hearing Instrument Fitters and Dispensers Advisory Board is to provide advice and recommendations to the Department on technical matters relevant to the administration of this chapter. **This announcement is for:**

- one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

- (A) is a citizen of the United States; and**
- (B) specializes in the practice of otolaryngology;**

- two members who have engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

- one public member.

The Board is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year. The Board is composed of the following members:

1. six members licensed under this chapter who have been engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

2. one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) is a citizen of the United States; and

(B) specializes in the practice of otolaryngology; and

3. two members of the public.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

Issued in Austin, Texas this January 31, 2025.

TRD-202500171

Courtney Arbour

Executive Director

Texas Department of Licensing and Regulation

Filed: January 21, 2025



Notice of Vacancies on Midwives Advisory Board

The Texas Department of Licensing and Regulation (Department) announces three vacancies on the Midwives Advisory Board (Board) established by Texas Occupations Code, Chapter 203. The pertinent rules may be found in 16 Texas Administrative Code Chapter 55. The purpose of the Midwives Advisory Board is to provide advice and recommendations to the Department on technical matters relevant to the administration of this chapter. **This announcement is for:**

- three midwives.

The Board consists of nine members appointed by the presiding officer of the Texas Commission of Licensing and Regulation (Commission), with the approval of the Commission. Members serve staggered terms of six years. The terms of three members expire on January 31 of each odd-numbered year. The Board consists of the following members:

1. five licensed midwives each of whom has at least three years' experience in the practice of midwifery;
2. one physician who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists;
3. one physician who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians; and
4. two members who represent the public and who are not practicing or trained in a health care profession, one of whom is a parent with at least one child born with the assistance of a midwife.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

These are not paid positions and there is no compensation or reimbursement for serving on the Board.

TRD-202500176

Courtney Arbour

Executive Director

Texas Department of Licensing and Regulation

Filed: January 21, 2025



Notice of Vacancies on the Elevator Advisory Board

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Elevator Advisory Board (Board) established by Texas Health and Safety Code, Chapter 754, Sections 754.012 and 754.013. The pertinent rules may be found in 16 Texas Administrative Code §74.65. The purpose of the Board is to protect public safety and to identify and correct potential hazards, the board shall advise the Texas Commission of Licensing and Regulation (Commission) on the adoption of appropriate standards for the installation, maintenance, alteration, operation, testing and inspection of equipment; the status of equipment used by the public in this state; sources of information relating to equipment safety; public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators, chairlifts, or platform lifts; and any other matter considered relevant by the Commission. **This advisory board announcement is for:**

- one representative of owners or managers of a building having six stories or more and having equipment; and

- one representative of independent equipment maintenance companies.

Members serve staggered three-year terms with two regulated industry positions and two consumer positions expiring in each of the first, second, and third years and one consumer position expiring in the third year. Terms shall expire November 1 of the third year of the member's term. The Board is composed of the following nine members appointed by the presiding officer of the Commission, with the Commission's approval:

1. a representative of the insurance industry or a certified elevator inspector;
2. a representative of equipment constructors;
3. a representative of owners or managers of a building having fewer than six stories and having equipment;
4. a representative of owners or managers of a building having six stories or more and having equipment;
5. a representative of independent equipment maintenance companies;
6. a representative of equipment manufacturers;
7. a licensed or registered engineer or architect;
8. a public member; and
9. a public member with a physical disability.

Interested persons should complete an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request a paper application from the Department by e-mail at advisory.boards@tdlr.texas.gov.

These are not paid position and there is no compensation or reimbursement for serving on the Board.

TRD-202500172

Courtney Arbour

Executive Director

Texas Department of Licensing and Regulation

Filed: January 21, 2025



Notice of Vacancy on Advisory Board of Athletic Trainers

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Advisory Board of Athletic Trainers (Board) established by Texas Occupations Code, Chapter 451. The pertinent rules may be found in 16 Texas Administrative Code §110.14. The purpose of the Advisory Board of Athletic Trainers is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on technical matters relevant to the administration of this chapter. Service as a Board member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- one athletic trainer.

The Board is composed of five members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year. The Board is composed of the following members:

- three members who are athletic trainers; and
- two members who represent the public.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application e-mail advisory.boards@tdlr.texas.gov.

This is not a paid position and there is no compensation or reimbursement for serving on the Board.

Issued in Austin, Texas this January 31, 2025.

TRD-202500166
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Notice of Vacancy on Combative Sports Advisory Board

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Combative Sports Advisory Board (Board) established by 16 Texas Administrative Code §61.120. The purpose of the Combative Sports Advisory Board is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on the health and safety of contestants and other matters relevant to the administration and enforcement of this Chapter. This announcement is for:

- one representative of a mixed martial arts promoter.

The Board is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. Members serve staggered six-year terms, with the terms of two or three members expiring on February 1 of each odd-numbered year. The Board is composed of the following members:

- (1) four physicians;
- (2) one representative of a boxing promoter;
- (3) one representative of a mixed martial arts promoter;
- (4) one combative sports referee or judge licensed at least three years;
- (5) one former combative sports contestant; and
- (6) one public member.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Ap-

plicants can also request an application from the Department by telephone (800) 803-9202 or e-mail advisory.boards@tdlr.texas.gov.

These are not paid positions and there is no compensation or reimbursement for serving on the Board.

TRD-202500167
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Notice of Vacancy on Licensed Breeders Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces a vacancy on the Licensed Breeders Advisory Committee (Committee) established by Texas Occupations Code, Chapter 802. The purpose of the Committee is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on matters related to the administration and enforcement of Chapter 802, including licensing fees and standards adopted under Subchapter E. **This announcement is for:**

- one licensed breeder.

The Committee is composed of nine members appointed by the presiding officer of the Commission, with the Commission's approval. Members of the committee serve staggered four-year terms. The terms of four or five members expire on February 1 of each odd-numbered year.

The committee consists of the following members:

1. two members who are licensed breeders;
2. two members who are veterinarians;
3. two members who represent animal welfare organizations, each of which has an office based in this state;
4. two members who represent the public; and
5. one member who is an animal control officer as defined in Section 829.001, Health and Safety Code.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application via e-mail at advisory.boards@tdlr.texas.gov.

These are not paid positions and there is no compensation or reimbursement for serving on the board.

TRD-202500169
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: January 21, 2025



Texas Lottery Commission

Scratch Ticket Game Number 2652 "BONUS MONEY"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2652 is "BONUS MONEY". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2652 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2652.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 5X SYMBOL, 10X SYMBOL, HEART SYMBOL, DIAMOND SYMBOL, TREASURE CHEST SYMBOL, HORSESHOE SYMBOL, PIGGY BANK SYMBOL, DICE SYMBOL, STACK OF CASH SYMBOL, COIN SYMBOL, SAILBOAT SYMBOL, POT OF GOLD SYMBOL, WATERMELON SYMBOL, LADYBUG SYMBOL,

LEMON SYMBOL, SUN SYMBOL, CHERRY SYMBOL, CLUB SYMBOL, BELL SYMBOL, PINEAPPLE SYMBOL, ANCHOR SYMBOL, MOON SYMBOL, RAINBOW SYMBOL, LIGHTNING BOLT SYMBOL, CROWN SYMBOL, UMBRELLA SYMBOL, RING SYMBOL, KEY SYMBOL, HAT SYMBOL, BOOT SYMBOL, CACTUS SYMBOL, TROPHY SYMBOL, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000 and \$250,000.

D. Play Symbol Caption- The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2652 - 1.2D

PLAY SYMBOL	CAPTION
5X SYMBOL	WINX5
10X SYMBOL	WINX10
HEART SYMBOL	HEART
DIAMOND SYMBOL	DIAMND
TREASURE CHEST SYMBOL	TRCHEST
HORSESHOE SYMBOL	HRSHOE
PIGGY BANK SYMBOL	PIGBNK
DICE SYMBOL	DICE
STACK OF CASH SYMBOL	CASH
COIN SYMBOL	COIN
SAILBOAT SYMBOL	BOAT
POT OF GOLD SYMBOL	GOLD
WATERMELON SYMBOL	MELON
LADYBUG SYMBOL	LADYBG
LEMON SYMBOL	LEMON
SUN SYMBOL	SUN
CHERRY SYMBOL	CHERRY
CLUB SYMBOL	CLUB
BELL SYMBOL	BELL
PINEAPPLE SYMBOL	PNAPLE
ANCHOR SYMBOL	ANCHOR
MOON SYMBOL	MOON
RAINBOW SYMBOL	RAINBW
LIGHTNING BOLT SYMBOL	BOLT
CROWN SYMBOL	CROWN
UMBRELLA SYMBOL	UMBRLA
RING SYMBOL	RING

KEY SYMBOL	KEY
HAT SYMBOL	HAT
BOOT SYMBOL	BOOT
CACTUS SYMBOL	CACTUS
TROPHY SYMBOL	TROPHY
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH
\$250,000	250TH

E. Serial Number- A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2652), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2652-000001-001.

H. Pack - A Pack of the "BONUS MONEY" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BONUS MONEY" Scratch Ticket Game No. 2652.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BONUS MONEY" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose thirty-six (36) Play Symbols. If a player reveals 2 matching Play Symbols in the same BONUS play area, the player wins the prize for that BONUS. If a player reveals 2 "5X" Play Symbols in the same BONUS play area, the player wins 5 TIMES the prize for that BONUS. If a player reveals 2 "10X" Play Symbols in the same BONUS play area, the player wins 10 TIMES the prize for that BONUS. EACH BONUS IS PLAYED SEPARATELY. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly thirty-six (36) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly thirty-six (36) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the thirty-six (36) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the thirty-six (36) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or

a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to twelve (12) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$5,000 and \$250,000 will each appear at least one (1) time, except on Tickets winning ten (10) times or more.

E. On all Tickets, a Prize Symbol will not appear more than three (3) times across all BONUS play areas, except as required by the prize structure to create multiple wins.

F. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket across all BONUS play areas.

G. A Ticket can win up to one (1) time in each of the twelve (12) BONUS play areas.

H. Each BONUS play area consists of two (2) Play Symbols and one (1) Prize Symbol. Each Ticket consists of twelve (12) BONUS play areas for a total of twenty-four (24) Play Symbols and twelve (12) Prize Symbols on each Ticket.

I. Winning Tickets will contain two (2) matching Play Symbols in the same BONUS play area or two (2) "5X" (WINX5) or two (2) "10X" (WINX10) Play Symbols in the same BONUS play area.

J. On Tickets winning more than one (1) time, winning combinations across the twelve (12) BONUS play areas will use different pairs of matching Play Symbols.

K. On Non-Winning Tickets, a Play Symbol will not appear more than one (1) time.

L. On winning Tickets, a Play Symbol will not appear more than two (2) times. Matching Play Symbols will only appear in a winning BONUS play area.

M. Non-winning Play Symbols in a BONUS play area will not be the same as winning Play Symbols from another BONUS play area.

N. A non-winning BONUS play area will have two (2) different Play Symbols.

O. Consecutive Non-Winning Tickets within a Pack will not have matching BONUS play areas. For example, if the first Ticket contains a "LEMON" (LEMON) Play Symbol and a "HEART" (HEART) Play Symbol in any BONUS, then the next Ticket may not contain a "LEMON" (LEMON) Play Symbol and a "HEART" (HEART) Play Symbol in any BONUS play area in any order.

P. Non-Winning Tickets will not have matching BONUS play areas. For example, if BONUS 1 is the "DIAMOND" (DIAMND) Play Symbol and "CLUB" (CLUB) Play Symbol then BONUS 2- BONUS 12 play areas will not contain the "DIAMOND" (DIAMND) Play Symbol and "CLUB" (CLUB) Play Symbol.

Q. The "5X" (WINX5) Play Symbol will only appear two (2) times on a Ticket and those two (2) "5X" (WINX5) Play Symbols will only appear in the same BONUS play area.

R. Two (2) "5X" (WINX5) Play Symbols that appear in the same BONUS play area will win 5 TIMES the prize for that BONUS and will win as per the prize structure.

S. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

T. A single "5X" (WINX5) Play Symbol will never appear on a Ticket.

U. The "10X" (WINX10) Play Symbol will only appear two (2) times on a Ticket and those two (2) "10X" (WINX10) Play Symbols will only appear in the same BONUS play area.

V. Two (2) "10X" (WINX10) Play Symbols that appear in the same BONUS play area will win 10 TIMES the prize for that BONUS and will win as per the prize structure.

W. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

X. A single "10X" (WINX10) Play Symbol will never appear on a Ticket.

Y. The "5X" (WINX5) and "10X" (WINX10) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS MONEY" Scratch Ticket Game prize of \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BONUS MONEY" Scratch Ticket Game prize of \$1,000, \$5,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BONUS MONEY" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "BONUS MONEY" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "BONUS MONEY" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the

Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2652. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2652 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	932,640	8.62
\$20.00	546,720	14.71
\$25.00	321,600	25.00
\$50.00	160,800	50.00
\$100	113,900	70.59
\$200	19,832	405.41
\$500	4,020	2,000.00
\$1,000	675	11,911.11
\$5,000	30	268,000.00
\$250,000	7	1,148,571.43

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.83. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2652 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2652, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202500162

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 21, 2025

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North Central Texas Council of Governments
 Request for Proposals Flooded Roads Information System Project

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from consultant firms for the creation of an advanced warning system for transportation facilities to identify potential flooding risk areas and alert the public about potentially dangerous conditions and closed roads. The Dallas-Fort Worth region's transportation system is vulnerable to extreme flooding events with minimal communication to the public on roadway status. This project would create a preemptive warning system to inform the public in advance

of any potential flooding of the transportation system. The study will assess existing and historical data collection, model the data to predict roadway flooding, and disseminate the results. The anticipated result will be a software to predict where flooding events of the transportation system would occur and a method to warn the public of the anticipated flooded areas.

Proposals must be received in-hand no later than **5:00 p.m., Central Time, on Friday, February 28, 2025**, to Nathan Drozd, Principal Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to TransRFPs@nctcog.org. The Request for Proposals will be available at www.nctcog.org/rfp by the close of business on **Friday, January 31, 2025**.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202500178

Mike Eastland

Executive Director

North Central Texas Council of Governments

Filed: January 22, 2025



Panhandle Regional Planning Commission

Legal Notice

Under the Workforce Innovation and Opportunity Act (WIOA) §108 (20 Code of Federal Regulations §679.500-580), the Panhandle Workforce Development Board is required to modify its comprehensive four-year Board plan that identifies and describes policies and procedures as well as local activities, and submit it to the State. The Panhandle Regional Planning Commission (PRPC), and the Panhandle Workforce Development Board (PWDB) will submit, to the Texas Workforce Commission (TWC), the Panhandle Workforce Development Board Plan for Program Years 2025-2028, on March 21, 2025.

Interested parties may examine the proposed modification of the Board Plan on the PRPC website at: <http://theprpc.org/programs/workforcedevelopment/default.html>. Copies may also be requested by email using the contact information listed below.

PRPC will accept written public comments on the Board Plan submitted by February 24, 2025. Written comments may be sent to Leslie Hardin, Workforce Development Program Manager, by email: lhardin@theprpc.org, or by mail: Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105-9257.

Equal Opportunity Employer/Program Auxiliary aids and services are available upon request to individuals with disabilities : 711

TRD-202500117

Leslie Hardin

Program Manager

Panhandle Regional Planning Commission

Filed: January 15, 2025



Texas Department of Transportation

Notice of Agreement on Identification of Future Transportation Corridors Within Bastrop County

The Texas Department of Transportation and Bastrop County, Texas, have entered into an agreement that identifies future transportation corridors within Bastrop County in accordance with Transportation Code, Section 201.619. Copies of the agreement and all plans referred to by the agreement are available at the department's Austin District Office, 7901 N. Interstate Hwy 35, Austin, Texas 78753.

TRD-202500189

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: January 22, 2025



How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “50 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 50 TexReg 3.”

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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