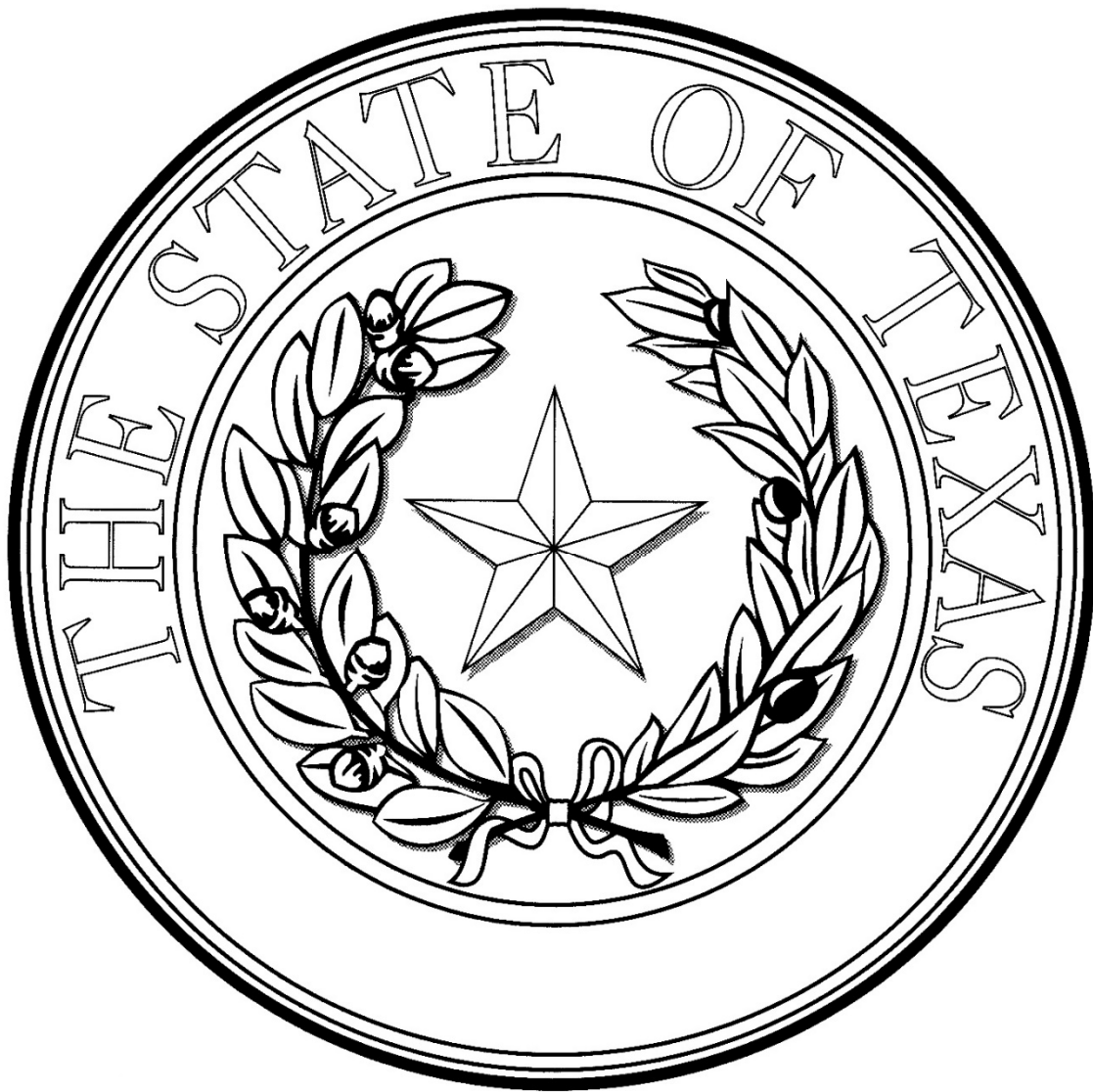

TEXAS REGISTER

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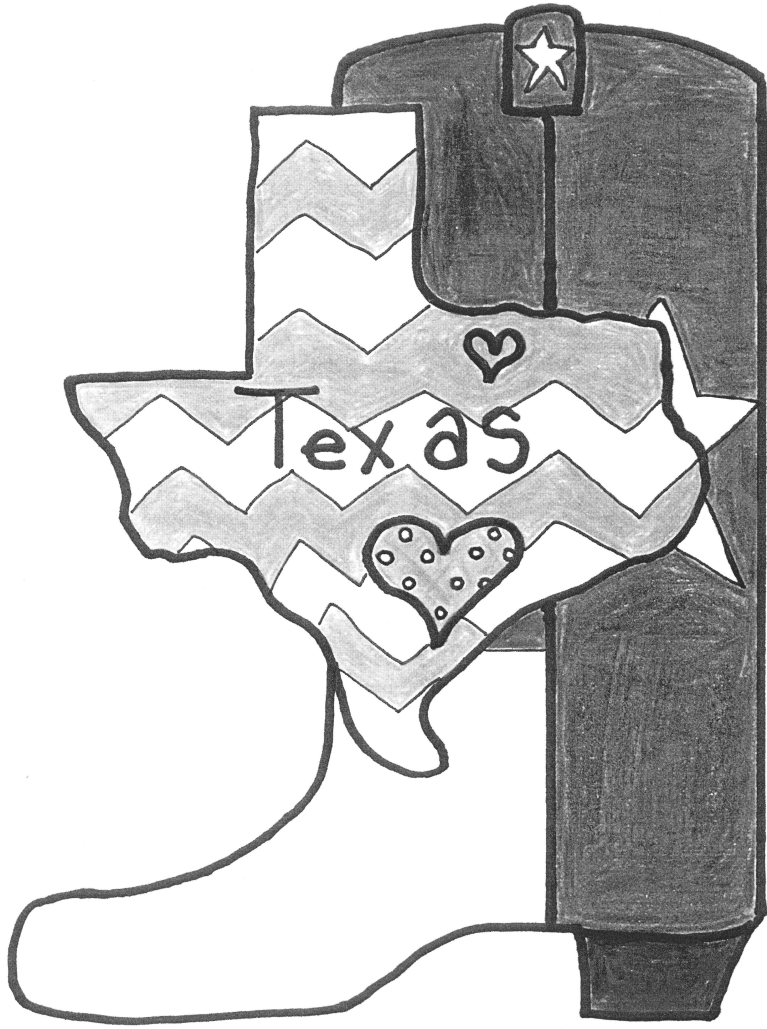
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THE GOVERNOR

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 February 25, 2025

Appointed as Ex-Officio/Non-Voting Member to the Rehabilitation Council of Texas for a term to expire at the pleasure of the Governor, Tammy A. Martin of Pflugerville, Texas (replacing Cheryl A. Fuller of Leander).

Greg Abbott, Governor

TRD-202500743



Proclamation 41-4169

TO ALL TO WHOM THESE PRESENTS SHALL COME:

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

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 21st day of February, 2025.

Greg Abbott, Governor

TRD-202500741



Proclamation 41-4170

TO ALL TO WHOM THESE PRESENTS SHALL COME:

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

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions persist in certain counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brewster, Burnet, Caldwell, Calhoun, Cameron, Childress, Clay, Collingsworth, Colorado, Comal, Crane, Culberson, Dimmit, Donley, Edwards, El Paso, Foard, Franklin, Frio, Gillespie, Goliad, Grayson, Guadalupe, Hall, Hardeman, Hays, Hidalgo, Hudspeth, Jeff Davis, Jim Wells, Karnes, Kendall, Kerr, Kinney, Kleberg, Lampasas, LaSalle, Lavaca, Live Oak, Llano, Loving, Lubbock, Mason, Matagorda, Maverick, Medina, Midland, Mitchell, Montgomery, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Scurry, Terrell, Travis, Uvalde, Val Verde, Victoria, Ward, Washington, Wharton, Wichita, Willacy, Williamson, Wilson, Winkler, Zapata and Zavala Counties.

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

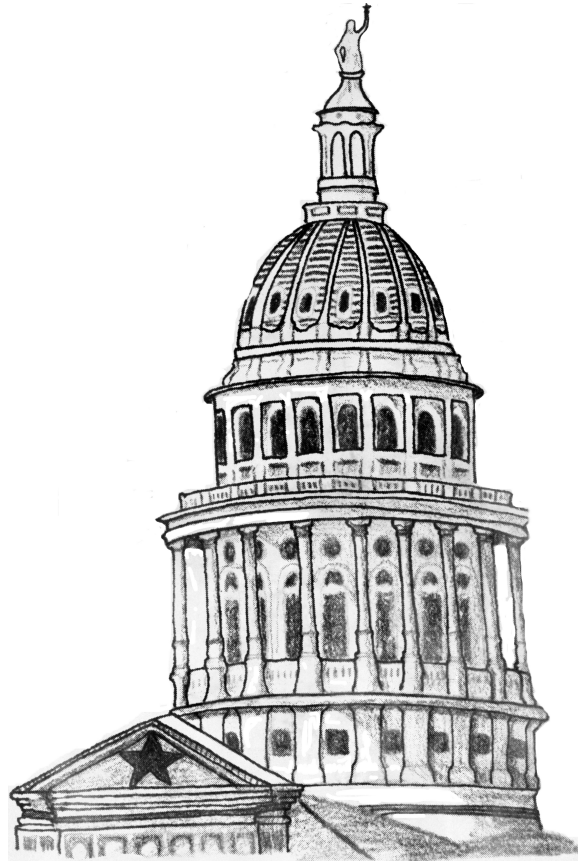
Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 21st day of February, 2025.

Greg Abbott, Governor

TRD-202500742



THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0580-KP

Requestor:

The Honorable Phil Sorrells
Tarrant County Criminal District Attorney
401 West Belknap
Fort Worth, Texas 76196

Re: School district detachment process under the Education Code (RQ-0580-KP)

Briefs requested by March 20, 2025

RQ-0581-KP

Requestor:

Ms. Brittany Sharkey
Executive Director
Texas Board of Veterinary Medical Examiners
1801 Congress Avenue, Suite 8.800
Austin, Texas 78701

Re: Whether the Veterinary Board possesses discretion over the publication of disciplinary orders that include informal reprimands (RQ-0581-KP)

Briefs requested by March 20, 2025

RQ-0582-KP

Requestor:

Mr. Ryan Mindell
Executive Director
Texas Lottery Commission
Post Office Box 16630

Austin, Texas 78761-6630

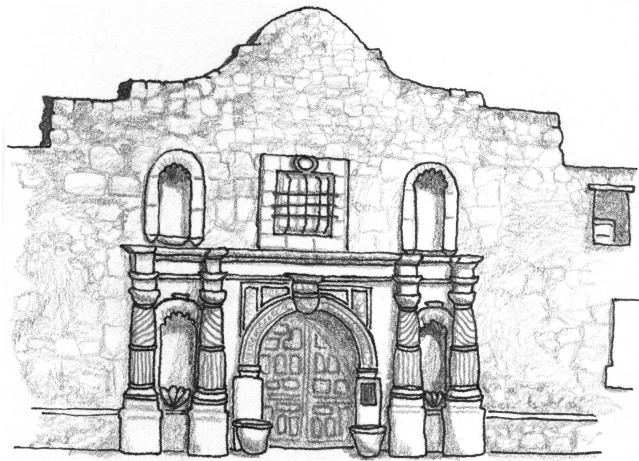
Re: Texas Lottery Commission authority over lottery ticket courier companies (RQ-0582-KP)

Briefs requested by March 20, 2025

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202500724
Justin Gordon
General Counsel
Office of the Attorney General
Filed: February 25, 2025





TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinion Question

Whether a member of the Texas House of Representatives may accept office space contributed by a Limited Liability Company (LLC). Whether a member of the Texas House of Representatives may continue to use contributed office space for a district office through the moratorium on political contributions prescribed by Section 253.034 of the Election Code. (AOR-709.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on February 25, 2025.

TRD-202500674

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: February 21, 2025

Whether a judge may use political contributions to pay for reasonable travel expenses associated with attending a naval ceremony as an invited local dignitary. (AOR-719.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on February 25, 2025.

TRD-202500675

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: February 21, 2025

Whether the use of a corporate aircraft may be provided to members of the legislature to attend an event at which the legislators will address an audience and learn about issues facing a West Texas border city. (AOR-720.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on February 25, 2025.

TRD-202500676

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: February 21, 2025

At what moment does a particular permitting or enforcement matter come within the "official responsibility" of a TCEQ commissioner for purposes of the Section 572.054(b) revolving door prohibition? Does a TCEQ commissioner "participate" in all matters for which a TCEQ investigation was conducted or an application/registration was received before the commissioner left office or only those matters that were presented to the commissioners for consideration? (AOR-721.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on February 25, 2025.

TRD-202500677

Jim Tinley
General Counsel
Texas Ethics Commission
Filed: February 21, 2025



Whether a part-time legislative staff member may accept outside employment assisting a registered lobbyist. (AOR-722.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter

36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on February 25, 2025.

TRD-202500678

Jim Tinley
General Counsel
Texas Ethics Commission
Filed: February 21, 2025



EMERGENCY RULES

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 343. SECURE JUVENILE PRE-ADJUDICATION DETENTION AND POST-ADJUDICATION CORRECTIONAL FACILITIES

SUBCHAPTER B. PRE-ADJUDICATION AND POST-ADJUDICATION SECURE FACILITY STANDARDS

37 TAC §343.261

The Texas Juvenile Justice Department is renewing the effectiveness of emergency new §343.261 for a 60-day period. The text of the emergency rule was originally published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9675).

Filed with the Office of the Secretary of State on February 20, 2025.

TRD-202400646

Jana Jones

General Counsel

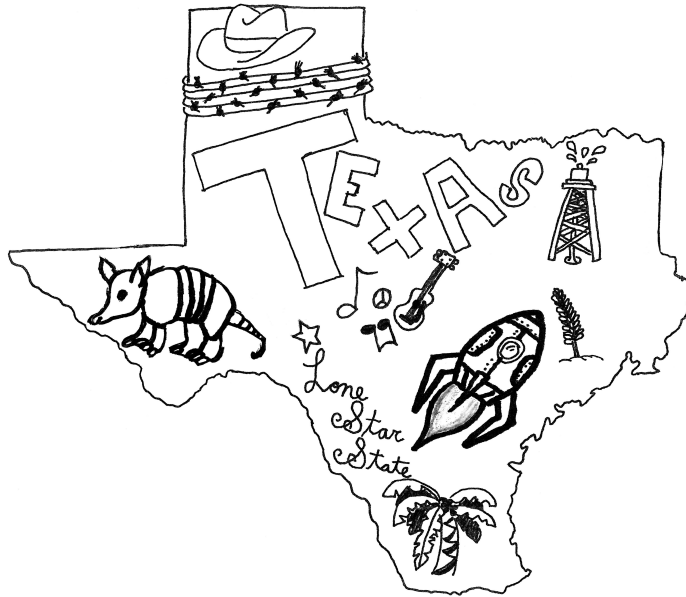
Texas Juvenile Justice Department

Original effective date: November 11, 2024

Expiration date: May 9, 2025

For further information, please call: (512) 490-7278





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 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

16 TAC §25.98

The Public Utility Commission of Texas (commission) proposes new §25.98, relating to Permian Basin Reliability Plan Reporting Requirements and Monitor. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.166 and §39.167 as enacted by House Bill (HB) 5066 during the Texas 88th Regular Legislative Session. The proposed rule will create reporting requirements associated with implementing the reliability plan for the Permian Basin region, establish the responsibilities of a third-party monitor, and require that the Transmission Service Providers implementing the reliability plan for the Permian Basin region pay for the monitor. The reporting requirements created by the proposed rule will enable the monitor to identify schedule and cost components that may impact the timely development and approval of necessary transmission service improvements. Additionally, the proposed rule will provide transparency related to costs for the projects that comprise the Permian Basin Reliability Plan.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will require an increase in fees paid to the agency for purposes of paying the invoiced costs for a monitor;
- (5) the proposed rule will create a new regulation;

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

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

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

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Jessie Horn, Senior Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state but there will be fiscal implications for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the section. Under the proposed rule, a municipally owned utility may be apportioned costs for the monitor.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be greater transparency related to implementation of the reliability plan for the Permian Basin region. In accordance with Texas Government Code §2001.024(a)(5), Ms. Horn has determined that the economic costs to persons required to comply with the proposed rule will vary on an individual basis, depending on the number of projects that must be reported on.

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rule-making if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by March 27, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by March 27, 2025. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption. All comments should refer to Project Number 57602.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The new rule is proposed under the following provisions of PURA: §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.003, which authorizes the commission to require a public utility to report to the commission information relating to the utility, establish the form for a report, and determine the time and frequency for a report; §14.151, which authorizes the commission to prescribe any form, record, and memorandum to be kept by a public utility, including a municipally owned utility, that the commission considers necessary to carry out Title II, Texas Utilities Code; §39.166, which requires the commission to develop a plan to implement each reliability plan adopted under §39.166(a); and §39.167, which requires the commission to direct the Electric Reliability Council of Texas, Inc. (ERCOT) to develop a reliability plan under PURA §39.166 for the Permian Basin region.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.003, 14.151, 39.166, and 39.167.

§25.98. Permian Basin Reliability Plan Reporting Requirements and Monitor.

(a) Purpose and applicability. This section sets forth the reporting requirements for a transmission service provider (TSP) responsible for the ownership, construction, and operation of a Permian Basin Reliability Plan (PBRP) common local project or import path (PBRP project) approved by the commission's order issued on October 7, 2024 in Project No. 55718, relating to Reliability Plan for the Permian Basin Under PURA §39.167. These requirements are in addition to the reporting requirements set forth in §25.83 of this title (relating to Transmission Construction Reports). This section also establishes the duties of the commission's monitor to oversee the completion of the PBRP.

(b) Initial implementation schedule requirements. Within 30 days of an order issued by the commission, identifying a TSP as re-

sponsible for the ownership, construction, and operation of a PBRP project, the TSP must file with the commission an initial implementation schedule, using a form prescribed by the commission, that identifies the following information:

- (1) name of the PBRP project;
- (2) PBRP project ID, as identified in the ERCOT Permian Basin Reliability Plan Study Report;
- (3) upgrade ID;
- (4) transmission upgrade;
- (5) voltage;
- (6) facilities;
- (7) counties affected;
- (8) the initial estimated start and completion dates for each of the following milestones, as applicable:
 - (A) CCN application,
 - (B) right-of-way and land acquisition,
 - (C) engineering and design,
 - (D) materials and equipment procurement, and
 - (E) construction of facilities; and
- (9) the initial estimated energization date of the PBRP project.

(c) Quarterly progress report requirements. The first of January, April, July, and October is the start of a new quarter. On the fifteenth of each new quarter, a TSP must file a report with the commission, detailing progress during the previous quarter, for each PBRP project through energization of the PBRP project.

(1) PBRP projects that require a certificate of convenience and necessity (CCN). For each PBRP project that requires a CCN, a TSP must file a quarterly progress report with the commission beginning the fifteenth day of a new quarter following the date that the commission approves the TSP's CCN application for the PBRP project.

(2) PBRP projects that do not require a CCN. For each PBRP project that does not require a CCN, a TSP must file a quarterly progress report with the commission beginning the fifteenth day of a new quarter following the date that the TSP files an initial implementation schedule for the PBRP project.

(3) PBRP project description and summary. For each PBRP project, a TSP must provide a description and summary of the PBRP project in its quarterly progress report that identifies the following, as applicable:

- (A) name of the PBRP project;
- (B) assigned docket number that is associated with the TSP's CCN application for the PBRP project;
- (C) PBRP project ID, as identified in the ERCOT Permian Basin Reliability Plan Study Report;
- (D) upgrade ID;
- (E) transmission upgrade;
- (F) voltage;
- (G) facilities;
- (H) counties affected;

(I) a brief summary of the PBRP project progress to date; and

(J) the percentage of engineering and design that is complete to date;

(K) the percentage of procurement that is complete to date;

(L) the percentage of construction that is complete to date.

(4) Costs. For each PBRP project, a TSP must identify in its quarterly progress report cost estimates using the most up-to-date information available, and actual costs as costs are incurred for each of the following, as applicable:

(A) CCN acquisition;

(B) right-of-way and land acquisition;

(C) engineering and design;

(D) material and equipment procurement;

(E) construction of facilities; and

(F) the total to complete the PBRP project.

(5) Implementation schedule. For each PBRP project, a TSP must identify in its quarterly progress report estimated dates, using the most up-to-date information available, and actual dates for each of the following milestones, as applicable:

(A) start and completion of right-of-way and land acquisition;

(B) start and completion of engineering and design;

(C) start and completion of materials and equipment procurement;

(D) start and completion of construction of facilities; and

(E) PBRP project energization.

(6) Form. A TSP must submit its quarterly progress report using a form prescribed by the commission.

(d) Reporting significant changes. Within 10 days of becoming aware of a significant change, a TSP must provide a detailed explanation of the reasons for the significant change and report that information to the commission's monitor in writing. A significant change includes the following:

(1) an increase of more than 10 percent to the total cost estimate that was included in the TSP's initial quarterly progress report;

(2) a change of more than 60 days from the initial estimated date to complete a milestone in the TSP's initial implementation schedule;

(3) a delay to the TSP's energization date of a PBRP project that is caused by the incomplete status of another PBRP project; and

(4) circumstances that pose a risk to the energization date of a PBRP project.

(e) Requests for additional information. Within 10 working days of receiving a request from commission staff or the commission's monitor for additional information relating to the progress or implementation of a PBRP project, a TSP must provide responsive information to the requestor, including applicable supporting documentation. A TSP may seek, and the requestor may agree to, an extension to the deadline for a TSP to provide responsive information.

(f) Confidential Information. Information that is submitted confidentially must be included in a redacted and unredacted form. The redacted form must be redacted only to the minimum extent necessary to ensure confidentiality. The unredacted form must include a memorandum prescribed by the commission that specifies the reasons and legal basis for submitting the information confidentially. Information submitted confidentially may only be accessed by commission staff or the monitor upon signing a protective order certification.

(g) Monitor. The commission delegates authority to the Executive Director to award, negotiate pricing and performance requirements, and execute and administer a contract for a third-party monitor for the PBRP. Before commencing its duties, the monitor must sign a protective order certification to access confidential information submitted by a TSP under this section. The monitor's duties include:

(1) monitor and review the reports that TSPs are required to file under this section;

(2) communicate with TSPs, as needed to fulfill the monitor's responsibilities under this section;

(3) request additional information from TSPs, as needed;

(4) provide regular status updates to the commission;

(5) inform commission staff of a significant change to a PBRP project; and

(6) any other function deemed appropriate by the Executive Director or the Executive Director's designee.

(h) Monitor cost assignment and apportionment. A TSP identified through a commission order as responsible for the ownership, construction, and operation of a PBRP project, must pay the invoiced costs approved by the Executive Director or the Executive Director's designee for the monitor.

(1) The funding of the monitor must be sufficient to ensure the selection of a monitor in accordance with the scope and activities set forth in subsection (g) of this subsection.

(2) The apportionment of costs among TSPs and the payment mechanisms will be established by the Executive Director or the Executive Director's designee.

(3) A TSP may seek recovery of the amounts paid under this paragraph as part of the overall PBRP project costs.

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 February 20, 2025.

TRD-202500649

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: April 6, 2025

For further information, please call: (512) 936-7322

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 66. STATE ADOPTION AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS
SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

19 TAC §66.1307

The Texas Education Agency (TEA) proposes the repeal of §66.1307, concerning the Instructional Materials and Technology Allotment. The proposed repeal would move the Instructional Materials and Technology Allotment rule to proposed new 19 TAC §67.1001, which is presented in a separate rule action in the Proposed Rules section of this issue of the *Texas Register*.

BACKGROUND INFORMATION AND JUSTIFICATION: House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised Texas Education Code, Chapter 31, related to instructional materials. The proposed repeal of §66.1307 would remove provisions related to the Instructional Materials and Technology Allotment that are being replaced by proposed new 19 TAC §67.1001. Proposed new §67.1001 would clarify the allowable uses of funds in alignment with HB 1605.

FISCAL IMPACT: Todd Davis, associate commissioner of instructional strategy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation to move information related to the Instructional Materials and Technology Allotment to proposed new 19 TAC §67.1001.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to

its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Davis has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to repeal a rule that is being replaced by proposed new §67.1001. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 7, 2025, and ends April 7, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 7, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §31.0211, as amended by House Bill (HB) 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses the documentation required for requisitions and disbursements to be approved, districts' online instructional materials ordering system accounts, and school district submission to the commissioner of the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0214, as transferred and amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to establish procedures to adjust the instructional materials and technology allotment of school districts experiencing high enrollment growth; TEC, §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules necessary to implement TEC, Chapter 31, Subchapter B-1, and states that a decision made by the commissioner under the subchapter is final and may not be appealed; and TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code (TEC), §31.0211, as amended by House Bill (HB) 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023; §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0214, as transferred and amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.029; §31.031; §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; and §31.104.

§66.1307. *Instructional Materials and Technology Allotment.*

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 February 24, 2025.

TRD-202500682

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 6, 2025

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



CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS

SUBCHAPTER AA. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

19 TAC §§67.1001, 67.1003, 67.1004

The Texas Education Agency (TEA) proposes new §§67.1001, 67.1003, and 67.1004, concerning the Instructional Materials and Technology Allotment. The proposed new sections would establish the requirements for the Instructional Materials and Technology Allotment and establish guidance regarding the use of the additional state aid for state-approved instructional materials and open education resource instructional materials.

BACKGROUND INFORMATION AND JUSTIFICATION: Proposed new §67.1001, Instructional Materials and Technology Allotment, would clarify the allowable uses of funds for the Instructional Materials and Technology Allotment that previously existed in 19 TAC §66.1307. This section would also clarify the commissioner's authority to set the allotment amounts for each school district and open-enrollment charter school and special school districts.

House Bill 1605, 88th Texas Legislature, Regular Session, 2023, established two new entitlements from the Foundation School Program. The bill also established requirements in Texas Education Code (TEC), Chapter 48, for the access to the funding.

Proposed new §67.1003, Additional State Aid for State-Approved Instructional Materials, would clarify the allowable uses of funds for the entitlement in TEC, §48.307, pertaining to additional state aid for state-approved instructional materials.

Proposed new §67.1004, Additional State Aid for Open Education Resource Instructional Materials, would clarify the allowable uses of funds for the entitlement in TEC, §48.308, pertaining to

additional state aid for open education resource instructional materials.

FISCAL IMPACT: Todd Davis, associate commissioner of instructional strategy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create new regulations regarding the requirements for the Instructional Materials and Technology Allotment and establish guidance regarding the use of the additional state aid for state-approved instructional materials and open education resource printing entitlements by implementing HB 1605, 88th Texas Legislature, Regular Session, 2023.

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

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Davis has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify the allowable uses of funding for instructional materials purchases and eligibility for new funding from the Foundation School Program. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 7, 2025, and ends April 7, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received

by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 7, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The new sections are proposed under Texas Education Code (TEC), §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which authorizes the commissioner of education to adopt rules consistent with TEC, Chapter 31, as necessary to implement a provision of the chapter that the commissioner or the agency is responsible for implementing; TEC, §31.0211, as amended by HB 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses the documentation required for requisitions and disbursements to be approved, districts' online instructional materials ordering system accounts, and school district submissions to the commissioner of the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.071, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which addresses state-developed open-source instructional materials; TEC, §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which permits the commissioner to adopt rules necessary to implement TEC, Chapter 31, Subchapter B-1, and states that a decision made by the commissioner under the subchapter is final and may not be appealed; TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition; and TEC, §48.004, which requires the commissioner to adopt rules, act, and require reports consistent with Chapter 48 as necessary to implement and administer the Foundation School Program.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code (TEC), §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023; §31.0211, as amended by HB 1605 and HB 4595, 88th Texas Legislature, Regular Session, 2023; §31.0212, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.0215, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.029; §31.031; §31.071, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.076, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; §31.104, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023; and §48.004.

§67.1001. Instructional Materials and Technology Allotment.

(a) The commissioner of education shall determine the amount of the Instructional Materials and Technology Allotment for a school district or an open-enrollment charter school based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) student enrollment data from the fall snapshot collection of the school year preceding the first year of each biennium.

(b) The commissioner shall determine the amount of the allotment for Texas Juvenile Justice Department facilities.

(c) The commissioner shall determine the amount of the allotment for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium.

(d) The amount of the allotments determined by the commissioner in this section is final and may not be appealed.

(e) Allotment funds may be used to pay for:

(1) any approved uses outlined in Texas Education Code (TEC), §31.0211(c);

(2) formats of instructional materials that are fully accessible to students with disabilities;

(3) activities related to the local review and adoption of instructional materials; and

(4) software for analyzing the use and effectiveness of instructional materials.

(f) Allotment funds may not be used to pay for:

(1) services for installation;

(2) the physical conduit that transmits data, such as cabling and wiring, or electricity;

(3) office and school supplies;

(4) items that are not directly related to student instruction, such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;

(5) travel expenses;

(6) equipment used for moving or storing instructional materials;

(7) instructional material that contains obscene or harmful content or would otherwise cause the school district to which the funds were allotted to be unable to submit the certification required under TEC, §31.11011(a)(1)(B); or

(8) instructional material that incorporates three-cueing in the phonics curriculum required under TEC, Chapter 28.

(g) The allotments for each biennium will be made available for school district and open-enrollment charter school use through the state's online instructional materials ordering system as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated.

(h) A school district or an open-enrollment charter school may access its allotment funds for an upcoming school year after submitting to the commissioner:

(1) certification that the school district or open-enrollment charter school has instructional materials that cover all the required Texas Essential Knowledge and Skills (TEKS), except those for physical education, as required by TEC, §31.1011;

(2) certification that the school district or open-enrollment charter school has used its allotment for only the allowable expenditures provided in subsection (e) of this section; and

(3) information regarding the instructional materials used by the district during the previous school year, including the cost of each material as required by TEC, §31.1012.

(i) Upon completion of the requirements listed in subsection (h) of this section, school districts and open-enrollment charter schools may access their allotment funds by correctly providing all the information required in the state ordering system.

(j) Information required in the state ordering system may include verification of TEKS coverage for certain disbursement requests.
§67.1003. Additional State Aid for State-Approved Instructional Materials.

(a) The commissioner of education shall determine annually the amount of additional state aid for State Board of Education (SBOE)-approved instructional materials, as outlined in Texas Education Code (TEC), §48.307, for a school district or an open-enrollment charter school based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) student enrollment data from the fall snapshot collection of the current school year.

(b) Before TSDS PEIMS student enrollment data from the fall snapshot collection of the current school year is available, a school district or an open-enrollment charter school will have an expected allotment amount that is based on 90% of the TSDS PEIMS student enrollment data from the fall snapshot collection of the previous school year.

(c) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf qualify for this funding under TEC, §30.025 and §30.056, respectively, for funding purposes under TEC, §48.307.

(d) Special purpose school districts authorized by the SBOE qualify for this funding. Texas Tech University K-12 and The University of Texas at Austin High School qualify for this funding under TEC, §48.307, for all free public education students. The University of Texas at Rio Grande Valley qualifies under TEC, §79.10(f). Texas A&M International University qualifies for this funding under TEC, §87.505(g). Lamar University qualifies for this funding under TEC, §96.707(k). The University of North Texas qualifies for this funding under TEC, §101.301(e)(3).

(e) Windham School District qualifies for this funding under TEC, §19.007(b) and (e), for funding purposes under TEC, §48.307.

(f) The Texas Juvenile Justice Department (TJJD) and juvenile justice alternative education programs operated by TJJD do not qualify for this funding under TEC, §48.307.

(g) Funds from TEC, §48.307, will be made available for school district and open-enrollment charter school use through the state's online instructional materials ordering system as early as possible each year in the fiscal year for which the funds have been appropriated.

(h) The Texas Education Agency (TEA) will make payment for any remaining balance for a school district's or an open-enrollment charter school's order under this section as the TEC, §48.307, funds become available.

(i) A school district is entitled to the amount of state aid provided by subsection (a) of this section each school year, regardless of whether the district uses the amount during the school year for which the amount was provided.

(j) Texas Government Code, Chapter 2251, does not apply to requisitions placed under this section, per TEC, §31.0215(e).

(k) The additional state aid for SBOE-approved instructional materials outlined in TEC, §48.307, may be used to purchase:

(1) instructional material products placed on the list of approved materials outlined in TEC, §31.022, including any non-text components of the approved product, such as manipulative kits or digital licenses; or

(2) instructional material components from a product on the list of approved materials outlined in TEC, §31.022, only after an initial purchase of all components of the product.

(l) SBOE-Approved Instructional Materials Allotment funds may not be used to purchase:

(1) instructional material or material components not on the list of approved instructional materials as outlined in TEC, §31.022;

(2) instructional material placed on the rejected list of instructional materials; or

(3) instructional material that promotes three-cueing as defined in TEC, §28.0062(a-1).

(m) Subject to TEA approval, the commissioner may exempt, under TEC, §7.056, a school district or an open-enrollment charter school from an initial purchase of each component of an approved product outlined in subsection (k)(2) of this section if the district or charter school can demonstrate that it already possesses an identical or nearly identical component for each student and/or teacher as indicated by the product design.

§67.1004. Additional State Aid for Open Education Resource Instructional Materials.

(a) The commissioner of education shall determine the amount of the additional state aid for open education resource (OER) instructional materials for a school district or an open-enrollment charter school based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) student enrollment data from the fall snapshot collection of the current school year.

(b) Before TSDS PEIMS student enrollment data from the fall snapshot collection of the current school year is available, a school district or an open-enrollment charter school will have an expected allotment amount that is based on 90% of the TSDS PEIMS student enrollment data from the fall snapshot collection of the previous school year.

(c) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf qualify for this funding under TEC, §30.025 and §30.056, respectively, for funding purposes under TEC, §48.308.

(d) Special purpose school districts authorized by the State Board of Education (SBOE) qualify for this funding. Texas Tech University K-12 and The University of Texas at Austin High School qualify for this funding under TEC, §48.308, for all free public education students. The University of Texas at Rio Grande Valley qualifies under TEC, §79.10(f). Texas A&M International University qualifies for this funding under TEC, §87.505(g). Lamar University qualifies for this funding under TEC, §96.707(k). The University of North Texas qualifies for this funding under TEC, §101.301(e)(3).

(e) Windham School District qualifies for this funding under TEC, §19.007(b) and (e), for funding purposes under TEC, §48.308.

(f) The Texas Juvenile Justice Department (TJJD) and juvenile justice alternative education programs operated by TJJD do not qualify for this funding under TEC, §48.308.

(g) Funds may only be used for the costs incurred or for which the district is obligated to pay during the school year in which the aid is provided.

(h) Requisitions for funding must be submitted in the online requisition and disbursement system required in TEC, §31.0212(e), before August 31 of the fiscal year in which the aid is provided.

(i) The entitlements for each year will be made available for school district and open-enrollment charter school use through the state's online instructional materials ordering system as early as possible in the fiscal year for which the funds have been appropriated.

(j) Texas Government Code, Chapter 2251, does not apply to requisitions placed under this section per TEC, §31.0125(e).

(k) The additional state aid for OER instructional materials outlined in TEC, §48.308, may be used to purchase:

(1) OER instructional material made available under TEC, Chapter 31, Subchapter B-1, and placed on the list of approved materials outlined in TEC, §31.022, including any non-text components of the approved product, such as manipulative kits; and

(2) OER instructional material components made available under TEC, Chapter 31, Subchapter B-1, and placed on the list of approved materials outlined in TEC, §31.022, only after an initial purchase of all components of the product.

(l) The additional state aid for OER instructional materials outlined in TEC, §48.308, may not be used to purchase or reimburse for:

(1) instructional material or material components not on the list of approved instructional materials as outlined in TEC, §31.022;

(2) instructional material placed on the rejected list of instructional materials;

(3) instructional material that promotes three-cueing as defined in TEC, §28.0062(a-1); or

(4) printing of SBOE-approved OER material, which may be otherwise procured through a requisition in EMAT.

(m) The commissioner may grant a waiver under TEC, §7.056, to exempt a school district or an open-enrollment charter school from an initial purchase of each component of an approved product outlined in subsection (k)(2) of this section if the district or charter school can demonstrate that it already possesses an identical or near-identical component for each student and/or teacher as indicated by the product design.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



CHAPTER 149. COMMISSIONER'S RULES CONCERNING EDUCATOR STANDARDS

SUBCHAPTER AA. TEACHER STANDARDS

19 TAC §149.1001

The Texas Education Agency (TEA) proposes the repeal of §149.1001 and new §149.1001, concerning teacher standards. The proposed repeal and new rule would reflect alignment with recent updates to State Board for Educator Certification (SBEC) rules in 19 Texas Administrative Code (TAC) Chapter 235, Subchapters A-D, as required by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 149.1001 identifies the performance standards to be used to inform the training, appraisal, and professional development of Early Childhood-Grade 12 pre-service and in-service teachers in Texas.

The proposed repeal of and new §149.1001 would align with recent updates to SBEC rules in 19 TAC Chapter 235, Subchapters A-D, as required by HB 1605.

The proposed repeal of and new §149.1001 would reflect a reorganization of the teacher standards and would also include definitions that provide clarity for educators and promote a common understanding of terms used within the updated teacher standards.

The standards included in proposed new §149.1001 would outline the necessary knowledge and skills related to instructional preparation, instructional delivery and assessment, content pedagogy for all teachers and for teachers leading English language arts and reading and math classes, learning environments, and professional practices and responsibilities.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation and create a new regulation to align with recent updates to SBEC rules in 19 TAC Chapter 235, Subchapters A-D, as required by HB 1605.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions;

would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Oeser has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to identify the performance standards to be used to inform the training, appraisal, and professional development of Early Childhood-Grade 12 pre-service and in-service teachers in Texas; to reflect a reorganization of the teacher standards; to include definitions that provide clarity for educators; and to align the rule with recent updates to SBEC rules in 19 TAC Chapter 235, Subchapters A-D, as required by HB 1605. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 7, 2025, and ends April 7, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 7, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code, §21.351, which authorizes the commissioner to adopt a recommended appraisal process and criteria on which to appraise the performance of teachers.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §21.351.

§149.1001. Teacher Standards.

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 February 24, 2025.

TRD-202500686

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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19 TAC §149.1001

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code, §21.351, which authorizes the commissioner to adopt a recommended appraisal process and criteria on which to appraise the performance of teachers.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §21.351.

§149.1001. Teacher Standards.

(a) **Purpose.** The standards identified in this section are performance standards used to inform the preparation, appraisal, and professional development of Early Childhood-Grade 12 pre-service and in-service teachers in Texas. The standards:

(1) emphasize the knowledge and skills required for teachers to select, evaluate, internalize, and implement high-quality instructional materials;

(2) assume that practicing teachers are aware of Open Educational Resource (OER) instructional materials, customize materials as directed by their district, and engage in initial lesson design when directed by their district;

(3) describe the knowledge and skills required for teachers to prepare, deliver, and assess instruction that results in positive outcomes for all students;

(4) describe the knowledge and skills required for teachers to build positive relationships with and among students in a safe and productive learning environment;

(5) reflect research- and evidence-based practices that ensure all students are held to rigorous grade-level academic and nonacademic standards; and

(6) define a teacher's role as a professional, ethical, and reflective practitioner.

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

(1) Academic language--the oral, written, auditory, and visual language specific to a discipline. It includes vocabulary, grammar, punctuation, syntax, discipline-specific terminology, and rhetorical conventions that allow students to acquire knowledge and academic skills.

(2) Accelerated instruction--includes aligned research-driven strategies and supports within a multi-tiered instructional model that helps students make more than one year of growth in one year of time.

(3) Complex text--texts that provide students opportunities to work with new language, knowledge, and ways of thinking. Text complexity is evaluated along quantitative dimensions such as word and sentence length; qualitative dimensions such as text structure, levels of meaning, and language conventions; and considerations including the reader's background, motivation, and knowledge of the topic.

(4) Deliberate practice--practice that is systematic, requires focused attention, and is conducted with the specific goal of improving performance.

(5) Encoding--the process by which information is initially coded to be stored and retrieved. Encoding requires attention and is aided by reducing extraneous cognitive load or information in the learning environment.

(6) Engagement--a state in which students are cognitively and behaviorally connected to and involved in their learning experience, characterized by participation, curiosity, and perseverance.

(7) Evidence-based--a concept or strategy that has been evaluated as a whole and found to have positive effects when implemented with programmatic fidelity.

(8) Explanatory feedback--feedback that provides the learner with an explanation of strengths and weaknesses related to the learning activity or assignment.

(9) Explicit instruction--instruction in which the teacher's actions are clear, unambiguous, direct, and visible. Explicit instruction makes it clear what the students are to do and learn.

(10) Fixed personality traits--the misconception that personality traits become fixed at certain stages of an individual's development and do not change over time.

(11) Formative assessment--A deliberate process used by teachers during instruction that provides actionable feedback used to elicit and use evidence of student learning to improve students' attainment of learning targets.

(12) Hemispheric dominance--the misconception that each brain hemisphere is specialized to process information differently and that the dominant hemisphere determines a person's personality and way of thinking.

(13) High-quality instructional materials--instructional materials that ensure full coverage of Texas Essential Knowledge and Skills (TEKS); are aligned to evidence-based best practices in the relevant content areas; support all learners, including students with disabilities, emergent bilingual students, and students identified as gifted and talented; enable frequent progress monitoring through embedded and aligned assessments; include implementation supports for teachers; and provide teacher- and student-facing lesson-level materials.

(14) Instructional preparation--describes the process by which a teacher uses knowledge of students and student learning to prepare instructional delivery to a unique group of students. Instructional preparation may include activities such as lesson design, evaluation of instructional materials, and lesson internalization.

(15) Interleaving--an instructional technique that arranges practice of topics in such a way that consecutive problems cannot be solved by the same strategy.

(16) Just-in-time supports--a learning acceleration strategy that integrates small, timely supports to address gaps in the most critical prerequisite knowledge and skills that students will need to access grade-level content in upcoming units.

(17) Learning styles--the disproven theory that identifies learners by type (visual, auditory, reading and writing, and kinesthetic) and adapts instruction to the individual's learning style.

(18) Lesson design--describes the process by which a teacher develops the planned learning experiences and related instructional materials for a topic. Lesson design incorporates activities including developing objectives, learning experiences, sequencing, scaffolds, resources, materials, tasks, assessments, and planned instructional practices.

(19) Lesson internalization--an aspect of instructional preparation specific to teaching a lesson or unit. It includes activities such as evaluating sequencing, learning goals, and expected outcomes; using assessment data to identify prior knowledge; studying lesson content; rehearsing lesson delivery; identifying possible misconceptions; and planning instructional strategies, materials, and pacing.

(20) Metacognition--the awareness of how one's mind learns and thinks and the use of that awareness to optimize the efficiency of learning and cognition.

(21) Multiple means of engagement--a range of options provided to engage and motivate students in learning.

(22) Multiple means of representation--a range of options provided in the ways that information is presented to students.

(23) Multiple means of action and expression--a range of options provided in the ways that students express or demonstrate their learning.

(24) Open educational resource instructional materials--state-developed materials included on the list of approved instructional materials maintained by the State Board of Education under Texas Education Code (TEC), §31.022, where the underlying intellectual property is either owned by the state of Texas or can be freely used and modified by the state in perpetuity.

(25) Patterns of student thinking--common patterns in the ways in which students think about and develop understanding and skill in relation to particular topics and problems.

(26) Productive struggle--expending effort to understand a challenging situation and determine a course of action when no obvious strategy is stated and receiving support that encourages persistence without removing the challenge.

(27) Recall--also referred to as "retrieval," the mental process of retrieving information that was previously encoded and stored in the brain.

(28) Remediation--strategies that focus on the drilling of isolated skills that bear little resemblance to current curriculum. Activities connect to past standards and aim to master content from past years.

(29) Research-based--a concept or strategy with positive findings from studies effective in isolation or in combination with other researched strategies or evidence-based programs.

(30) Retrieval practice--also referred to as "testing effect" or "active recall," the finding that trying to remember previously learned material, including by responding to questions, tests, assessments, etc., leads to better retention than restudying or being retold the material for an equivalent amount of time.

(31) Science of learning--the summarized existing cognitive-science, cognitive psychology, educational psychology, and neuroscience research on how people learn, as it connects to practical implications for teaching.

(32) Second language acquisition--the process through which individuals leverage their primary language to learn a new language. A dynamic process of learning and acquiring proficiency in the English language, supported by exposure to comprehensible input, interaction, formal instruction, and access to resources and support in English and primary language.

(33) Spaced practice/distributed practice--practice opportunities for learning are sequenced in a way that students actively retrieve learned information from long-term memory through multiple opportunities over time with rest intervals in between.

(34) State Board of Education-approved instructional materials--materials included on the list of approved instructional materials maintained by the State Board of Education under TEC, §31.022.

(35) Summative assessment--medium- to high-stakes assessments, administered at the conclusion of an instructional period

that are used to evaluate student learning, knowledge, proficiency, or mastery of a learning target.

(c) Standards.

(1) Standard 1--Instructional Preparation. Teachers understand how students learn, and they prepare for instructional delivery by designing lessons, evaluating instructional materials, leveraging their knowledge of students, and engaging in a thorough process for lesson internalization.

(A) Teachers apply basic principles from the learning sciences to prepare for instruction.

(i) Teachers understand learning as an active and social process of meaning-making that results in changes in student knowledge and behavior based on connections between past and new experiences.

(ii) Teachers prepare instruction that uses research- and evidence-based teaching strategies for eliciting and sustaining attention and motivation, supporting memory encoding and recall, and deeply integrating new experiences with prior knowledge, such as interleaving, spacing, metacognition, and distributed practice.

(iii) Teachers recognize misconceptions about learning, the brain, and child and adolescent development, including myths such as learning styles, personality traits, and hemispheric dominance, and avoid unsupported instructional practices based on these misunderstandings.

(B) Teachers evaluate instructional materials and select or customize the highest quality district-approved option to prepare for instruction.

(i) Teachers identify the components of high-quality instructional materials, such as a logical scope and sequence, clear learning objectives, grade-level content, explicit instruction, student engagement, academic language, deliberate practice, and assessment, appropriate to the discipline.

(ii) Teachers identify the benefits of using high-quality instructional materials.

(iii) Teachers apply knowledge of the components of high-quality instructional materials to design, select, or customize materials when appropriate.

(iv) Teachers analyze instructional materials and digital resources to ensure quality, rigor, and access to grade-level content.

(v) Teachers use high-quality materials to plan instruction that connects students' prior understanding and real-world experiences to new content and contexts.

(C) Teachers understand initial lesson design and, when district-approved materials are not available and when directed by their district, engage in initial lesson design using science of learning concepts.

(i) Teachers design lessons based on the components of high-quality instructional materials, such as a logical scope and sequence, clear learning objectives, and grade-level content.

(ii) Teachers design lessons that effectively connect learning objectives with explicit instruction, student engagement, academic language, deliberate practice, and assessment.

(iii) Teachers design lessons that connect students' prior understanding and real-world experiences to new content and contexts.

(iv) Teachers plan for the use of digital tools and resources to engage students in active, deep learning.

(D) Teachers ensure lesson sequence and materials meet the needs of all learners and adapt methods when appropriate.

(i) Teachers plan for the use of multiple means to engage students, varied ways of representing information, and options for students to demonstrate their learning.

(ii) Teachers leverage student data to prepare flexible student groups that facilitate learning for all students.

(iii) Teachers differentiate instruction and align methods and techniques to diverse student needs, including acceleration, just-in-time supports, technology, intervention, linguistic supports, appropriate scaffolding, and implementation of individualized education programs.

(E) Teachers recognize students' backgrounds (familial, educational, linguistic, and developmental) as assets and apply knowledge of students to engage them in meaningful learning.

(i) Teachers plan to present information in a meaningful way that activates or provides any prerequisite knowledge to maximize student learning.

(ii) Teachers collaborate with other professionals, use resources, and plan research- and evidence-based instructional strategies to anticipate and respond to the unique needs of students, including disabilities, giftedness, bilingualism, and biliteracy.

(iii) Teachers plan instructional practices and strategies that support language acquisition so that language is comprehensible and instruction is fully accessible.

(iv) Teachers apply knowledge of how each category of disability under the Individuals with Disabilities Act (20 U.S.C. §1400, et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) can affect student learning and development.

(F) Teachers engage in a thorough process of lesson internalization to prepare well-organized, sequential instruction that builds on students' prior knowledge.

(i) Teachers identify how the intentional sequencing of units, lessons, and learning tasks supports student knowledge and mastery throughout the year.

(ii) Teachers identify how the learning goals of units and lessons are aligned to state standards.

(iii) Teachers use assessment data to identify prior knowledge and plan for the learning needs of students.

(iv) Teachers internalize lesson content by reading the texts, completing learning tasks and assessments, rehearsing lesson delivery, and identifying any personal gaps in understanding.

(v) Teachers plan for pacing, use of teacher resources, and transitions between activities.

(vi) Teachers create or analyze and customize exemplar responses and anticipate potential barriers to learning.

(vii) Teachers strategically plan instructional strategies, formative assessments, technology, scaffolds, and enrichment to make learning accessible to all students.

(2) Standard 2--Instructional Delivery and Assessment. Teachers intentionally apply their knowledge of students and the learning process to implement high-quality instruction and assessment

practices that are research- and evidence-based and informed by student work.

(A) Teachers deliver research- and evidence-based instruction to meet the needs of all learners and adapt methods when appropriate.

(i) Teachers effectively communicate grade-level expectations, objectives, and goals to help all students reach high levels of achievement.

(ii) Teachers apply research- and evidence-based teaching strategies for eliciting and sustaining attention and motivation and supporting memory encoding and recall, such as interleaving, spacing, metacognition, and distributed practice.

(iii) Teachers ensure a high degree of student engagement through explicit instruction, student discussion, feedback, and opportunities for deliberate practice.

(iv) Teachers apply research- and evidence-based teaching strategies that connect students' prior understanding and real-world experiences to new content and contexts and invite student perspectives.

(v) Teachers implement appropriate scaffolds in response to student needs.

(vi) Teachers strategically implement tools, technology, and procedures that lead to increased participation from all students, elicit patterns of student thinking, and highlight varied responses.

(vii) Teachers provide multiple means of engagement to encourage all students to remain persistent in the face of challenges.

(viii) Teachers collaborate with other educational professionals, when appropriate, to deliver instruction that addresses students' academic and non-academic needs.

(B) Teachers scaffold instruction, from initial knowledge and skill development through automaticity, toward complex, higher-order thinking, providing opportunities for deeper learning.

(i) Teachers set high expectations and facilitate rigorous grade-level learning experiences for all students that encourage them to apply disciplinary and cross-disciplinary knowledge to real-world problems.

(ii) Teachers apply instructional strategies to deliberately engage all students in critical thinking and problem solving.

(iii) Teachers validate student responses, using them to advance learning for all students.

(iv) Teachers respond to student errors and misconceptions with prompts or questions that build new understanding on prior knowledge.

(v) Teachers use strategic questioning to build and deepen student understanding.

(vi) Teachers strategically incorporate technology that removes barriers and allows students to interact with the curriculum in more authentic, significant, and effective ways.

(C) Teachers consistently check for understanding, give feedback, and make lesson adjustments as necessary.

(i) Teachers use a variety of formative assessments during instruction to gauge and respond to student progress and address misconceptions.

(ii) Teachers implement frequent, low- or no-stakes assessments to promote retrieval of learned information.

(iii) Teachers continually monitor and assess students' progress to guide instructional outcomes and determine next steps to ensure student mastery of grade-level content.

(iv) Teachers build student capacity to self-monitor their progress.

(v) Teachers provide frequent, timely, and specific explanatory feedback that emphasizes effort and improvement and acknowledges students' strengths and areas for growth.

(vi) Teachers strategically implement instructional strategies, formative assessments, scaffolds, and enrichment to make learning accessible to all students.

(vii) Teachers set goals for each student in response to previous outcomes from formative and summative assessments.

(viii) Teachers involve all students in self-assessment, goal setting, and monitoring progress.

(D) Teachers implement formative and summative methods of measuring and monitoring student progress through the regular collection, review, and analysis of data.

(i) Teachers individually and collaboratively review and analyze student work to understand students' thinking, identify strengths and progress toward mastery, and identify gaps in knowledge.

(ii) Teachers combine results from different measures to develop a holistic picture of students' strengths and learning needs.

(iii) Teachers apply multiple means of assessing learning, including the use of digital tools, to accommodate according to students' learning needs, linguistic differences, and/or varying levels of background knowledge.

(iv) Teachers use assessment results to inform and adjust instruction and intervention.

(v) Teachers clearly communicate the results of assessments with students, including setting goals and identifying areas of strength and opportunities for improvement.

(3) Standard--Content Pedagogy Knowledge and Skills. Teachers show a full understanding of their content and related pedagogy and the appropriate grade-level TEKS.

(A) Teachers understand the major concepts, key themes, multiple perspectives, assumptions, processes of inquiry, structure, and real-world applications of their grade-level and subject-area content.

(i) Teachers demonstrate a thorough understanding of and competence in the use of open education resource instructional materials when available for the grade level and subject area.

(ii) Teachers have expertise in how their content vertically and horizontally aligns with the grade-level/subject-area continuum, leading to an integrated curriculum across grade levels and content areas.

(iii) Teachers identify gaps in students' knowledge of subject matter and communicate with their leaders and colleagues to ensure that these gaps are adequately addressed across grade levels and subject areas.

(iv) Teachers deliberately and regularly share multiple different examples of student representations and resolutions.

(v) Teachers stay current with developments, new content, new approaches, and changing methods of instructional delivery within their discipline.

(B) Teachers demonstrate content-specific pedagogy that meets the needs of diverse learners, using engaging instructional materials to connect prior content knowledge to new learning.

(i) Teachers teach the key content knowledge, the key skills of the discipline, and the requisite linguistic skills to construct, the information into usable knowledge and make it accessible to all learners by constructing it into usable knowledge.

(ii) Teachers make appropriate and authentic connections across disciplines, subjects, and students' real-world experiences to build knowledge from year to year.

(iii) Teachers provide multiple means of representation and engagement to promote literacy and ensure discipline-specific academic language is accessible for all students.

(iv) Teachers explicitly teach, encourage, and reinforce the use of academic language, including vocabulary, use of symbols, and labeling.

(v) Teachers prepare for and apply scaffolds in the lesson to make content accessible to all students, including diverse learners such as emergent bilingual students, students with disabilities, and students working above and below grade level.

(vi) Teachers engage students in productive struggle by allowing them time to work, asking questions to deepen their thinking, encouraging multiple approaches, and praising effort on successful and unsuccessful attempts.

(C) Teachers demonstrate research- and evidence-based best practices specific to planning, instruction, and assessment of mathematics.

(i) Teachers use multiple means of representation to communicate the relationship between mathematical concepts and mathematical procedures.

(ii) Teachers engage students in recursive lesson activities that reinforce automaticity in prerequisite knowledge and skills to mitigate the use of working memory when engaging those knowledge and skills as task complexity increases.

(iii) Teachers use multiple means of representation to engage students in mathematical tasks that deepen students' understanding of conceptual understanding, procedural fluency, and mathematical reasoning.

(iv) Teachers prepare and deliver instruction and questioning to deliberately solicit different explanations, representations, solutions, and reasoning from all students.

(v) Teachers prepare and deliver explicit instruction and modeling that links grade-level conceptual understanding with mathematical procedures and avoids shortcuts to problem solving.

(vi) Teachers analyze instructional plans to ensure an appropriate balance between conceptual understanding and procedural fluency.

(vii) Teachers facilitate discourse through regular opportunities for students to communicate the relationship between mathematical concepts and mathematical procedures.

(viii) Teachers provide time for students to collaboratively and independently apply conceptual understanding and procedural fluency to problem-solving.

(ix) Teachers communicate and model the connections between mathematics and other fields that use mathematics to problem solve, make decisions, and incorporate real-world applications in instruction.

(x) Teachers explicitly teach and model that math abilities are expandable and improvable.

(D) Teachers demonstrate research- and evidence-based best practices specific to planning, instruction, and assessment of language arts and reading.

(i) Teachers analyze instructional materials in preparation for instruction to ensure they provide grade-level appropriate, systematic, and explicit practice in foundational literacy skills.

(ii) Teachers analyze instructional materials in preparation for instruction to ensure that foundational literacy skills are reached at each grade level.

(iii) Teachers implement clear and explicit reading instruction aligned to the Science of Teaching Reading competencies and engage students in deliberate practice to make meaning from text.

(iv) Teachers identify and analyze grade-level and complex texts for quality in preparation for instruction.

(v) Teachers prepare and deliver explicit reading instruction that uses grade-level and complex texts to build student knowledge.

(vi) Teachers strategically plan and implement supports such as read-aloud and questioning at varied levels of complexity to support comprehension of high-quality complex texts.

(vii) Teachers engage students in writing practice, including text-based writing that builds comprehension and higher-order thinking skills.

(viii) Teachers engage students in speaking practice that builds comprehension, language acquisition, and higher-order thinking skills.

(ix) Teachers use high-quality assessments to monitor grade-level appropriate foundational skills development.

(x) Teachers implement and analyze a variety of high-quality literacy assessments to monitor grade-level appropriate comprehension and identify gaps.

(xi) Teachers apply just-in-time supports and intervention on prerequisite skills and continually monitor to determine the need for additional learning support.

(4) Standard 4--Learning Environment. Teachers maintain a safe and supportive learning environment that is characterized by respectful interactions with students, consistent routines, high expectations, and the development of students' self-regulation skills.

(A) Teachers establish, implement, and communicate consistent routines for effective classroom management, including clear expectations for student behavior and positive interventions, that maintain a productive learning environment for all students.

(i) Teachers arrange their classrooms and virtual learning spaces in an organized way that is safe, flexible, and accessible to maximize learning that accommodates all students' learning and physical needs.

(ii) Teachers implement consistent classroom and behavior management systems to maintain an environment where all students are engaged and can reach academic and nonacademic goals.

(iii) Teachers model and provide explicit instruction on effective behavior regulation skills to build students' resilience and self-discipline.

(iv) Teachers maintain a safe and positive culture of student ownership and group accountability that fosters engagement by all students in the classroom expectations, culture, and norms.

(B) Teachers lead and maintain classroom environments in which students are motivated and cognitively engaged in learning.

(i) Teachers maintain a classroom environment that is based on high expectations and student self-efficacy.

(ii) Teachers strategically use instructional time, including transitions, to maximize learning.

(iii) Teachers manage and facilitate strategic and flexible groupings to maximize student learning.

(5) Standard 5--Professional Practices and Responsibilities. Teachers are self-aware and consistently hold themselves to a high standard for individual development. They collaborate with other educational professionals; communicate regularly with stakeholders; maintain professional relationships; comply with federal, state, and local laws; and conduct themselves ethically and with integrity.

(A) Teachers model ethical and respectful behavior and demonstrate integrity in all settings and situations.

(i) Teachers understand and comply with applicable federal, state, and local laws pertaining to the professional behaviors and responsibilities of educators.

(ii) Teachers adhere to the Educators' Code of Ethics in §247.2 of this title (relating to Code of Ethics and Standard Practices for Texas Educators), including following policies and procedures at their specific school placement(s).

(iii) Teachers demonstrate understanding of their role in strengthening American democracy and are willing to support and defend the constitutions of the United States and Texas.

(iv) Teachers advocate for and apply knowledge of students' progress and learning plans through the maintenance of thorough and accurate records.

(v) Teachers model and promote for students the use of safe, ethical, and legal practices with digital tools and technology.

(B) Teachers actively self-reflect on their practice and collaborate with other educational professionals to deepen knowledge, demonstrate leadership, and improve their instructional effectiveness.

(i) Teachers apply consistent reflective practices, analysis of student work, and video evidence of teaching to identify and communicate professional learning needs.

(ii) Teachers seek and apply job-embedded feedback from colleagues, including supervisors, mentors, coaches, and peers.

(iii) Teachers establish and strive to achieve professional goals to strengthen their instructional effectiveness and better meet students' needs.

(iv) Teachers engage in relevant professional learning opportunities that align with their growth goals and student learning needs.

(v) Teachers seek to lead other adults on campus through professional learning communities, grade- or subject-level team leadership, committee membership, or other opportunities.

(vi) Teachers collaborate with educational professionals to ensure learning is accessible and enables all students to reach their academic and non-academic goals.

(C) Teachers communicate consistently, clearly, and respectfully with all community stakeholders, including students, parents and families, colleagues, administrators, and staff.

(i) Teachers clearly communicate the mission, vision, and goals of the school to students, colleagues, parents and families, and other community members.

(ii) Teachers communicate regularly, clearly, and appropriately with families about student progress, providing detailed and constructive feedback in a language that is accessible to families to support students' developmental and learning goals.

(iii) Teachers build mutual understanding of expectations with students, parents, and families through clear, respectful, and consistent communication methods.

(iv) Teachers communicate with students and families regularly about the importance of collecting data and monitoring progress of student outcomes, sharing timely and comprehensible feedback so they understand students' goals and progress.

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 February 24, 2025.

TRD-202500687

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 6, 2025

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



TITLE 22. EXAMINING BOARDS

PART 10. TEXAS FUNERAL SERVICE COMMISSION

CHAPTER 210. NON-TRANSPLANT WHOLE BODY DONATIONS

SUBCHAPTER B. AUTHORIZATION & REGISTRATION FOR THE RECEIPT, USE AND DISTRIBUTION OF DONOR WHOLE BODIES OR BODY PARTS

22 TAC §210.27

The Texas Funeral Service Commission (hereinafter referred to as "the Commission") proposes a new rule - 22 Texas Administrative Code §210.27. This proposed rule establishes licensing fees for regulated entities, including willed body programs, non-transplant anatomical donation organizations, and anatomical facilities.

BACKGROUND INFORMATION AND JUSTIFICATION

The proposed new 22 Texas Administrative Code §210.27 implements TEX. HEALTH & SAFETY CODE § 691.012, which authorizes the Commission to adopt rules necessary to set and administer fees. These fees are reasonable and necessary to cover the cost of regulating willied body programs, non-transplant anatomical donation organizations, and anatomical facilities. The rule is necessitated by the transfer of regulatory duties from the Anatomical Board of the State of Texas to the Commission under Senate Bill 2040 (88th (R)).

FISCAL NOTE

Staff Attorney Sarah Kemp has determined that, for each of the first five years that the rule is in effect, the additional estimated cost to the state and local governments will be primarily composed of licensing fees. State-affiliated programs, such as those operated by state universities, will bear these costs as part of their operational budgets. Licensing fees will include:

1. \$2,790.00 for initial authorization, registration application, or change of ownership (including relocations);
2. additional inspection fees for inspection requests made within 30 days;
3. \$1,789.00 for 12-month renewals; and
4. \$1,789.00 for late applications submitted within 1-30 days after expiration.

The total annual fees for each regulated entity will depend on its licensing stage, whether it requires expedited inspections, and if late fees are applicable. The Commission's Legislative Appropriations Request has projected costs associated with its new and expanded statutory obligations. The additional revenue generated by these fees is designed to cover the costs of regulatory duties required by the General Appropriations Act.

PUBLIC BENEFIT

The proposed rule provides the financial support necessary to regulate willied body programs, non-transplant anatomical donation organizations, and anatomical facilities - thereby protecting public safety and welfare.

ECONOMIC COSTS TO PERSONS

Staff Attorney Sarah Kemp has determined that the economic cost to individuals and entities required to comply with the proposed rule comprises licensing fees detailed above.

ECONOMIC IMPACT ON LOCAL ECONOMY AND EMPLOYMENT

Staff Attorney Sarah Kemp has determined that the proposed rule will not impact local economies and employment.

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

The proposed rule is not expected to adversely impact small businesses, micro-businesses, or rural communities because these entities are not typically involved in the activities regulated by the rule. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis is not required under TEX. GOV'T CODE § 2006.002.

TAKINGS IMPACT ASSESSMENT

The proposed rule does not constitute a taking as it does not impose a burden on private real property. TEX. GOV'T CODE § 2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to TEX. GOV'T CODE § 2001.0221, the Commission provides the following government growth impact statement:

1. The proposed rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation or elimination of employee positions.
3. Implementation of the proposed rule may impact future appropriations, depending on actual regulatory costs and revenue.
4. The proposed rule requires an increase in fees paid to the Commission, based on reasonable and necessary administrative costs.
5. The proposed rule creates new regulations to fulfill responsibilities transferred under Senate Bill 2040, 88th regular legislative session (SB 2040).
6. The proposed rule does not expand an existing regulation but replaces prior rules of the Anatomical board.
7. The proposed rule does not increase the number of individuals or entities subject to the applicability of the Commission's rules but clarifies procedures for those now under the Commission's jurisdiction.
8. The proposed rule does not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENTS

Comments on the proposed rule may be submitted to the Texas Funeral Service Commission by email to sarah.sanders@tfsc.texas.gov for 30 days following the date of publication in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be e-mailed by midnight on the last day of the comment period. Comments should be organized in a manner consistent with the organization of the proposed new rule.

STATUTORY AUTHORITY

The proposed rule is authorized by TEX. HEALTH & SAFETY CODE § 691. 012 which gives the Commission authority to adopt rules to set and administer fees. Statutes affected by the proposed rule include TEX. HEALTH & SAFETY CODE §§ 691.012, 691.034.

§210.27. Fees.

(a) Initial establishment authorization, registration application, or change of ownership fee. The fee for an initial authorization or registration (includes change of ownership or relocation) is \$2,790.00. The authorization or registration term shall not exceed 12 months. Additional fees may apply for inspection requests made within 30 days.

(b) Renewal fee. The fee for a renewal authorization or registration is \$1,789.00. The renewal shall not exceed 12 months.

(c) Late fee. Applications submitted 1-30 days after the authorization or registration expired will incur an additional fee of \$1,789.00 in addition to the renewal fee.

(d) Payment of fees. All fees shall be paid to the Texas Funeral Service Commission.

(e) Non-refundable fees. All fees are non-refundable and must be paid to the Texas Funeral Service 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 February 21, 2025.

TRD-202500680

Sarah Sanders

Staff Attorney

Texas Funeral Service Commission

Earliest possible date of adoption: April 6, 2025

For further information, please call: (512) 936-2469



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 289. RADIATION CONTROL

SUBCHAPTER E. REGISTRATION REGULATIONS

Editor's Note: This proposed rulemaking was originally published in the February 21, 2025, issue of the Texas Register (50 TexReg 908). Due to an error by the Texas Register, numerous provisions in the original publication of the amendment were formatted incorrectly or were omitted from the original publication. Text of the corrected proposal follows.

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes an amendment to §289.230, concerning Certification of Mammography Systems and Mammography Machines Used for Interventional Breast Radiography, and the repeal of §289.234, concerning Mammography Accreditation.

BACKGROUND AND PURPOSE

The purpose of the proposal is to amend §289.230, relating to requirements for the certification and use of radiation machines in mammography and interventional breast radiography. The amendment is necessary to align with the United States Food and Drug Administration (FDA) Mammography Quality Standards Act (MQSA) under 21 Code of Federal Regulations (CFR) Part 900.

Additionally, the proposal repeals §289.234, relating to mammography accreditation, because DSHS no longer accredits mammography facilities due to an expired contract which ended on August 31, 2024. With the contract's expiration, this rule is no longer valid.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §289.230 updates the requirements concerning breast tissue density in mammography reports and plain language notification statements to patients. Three new outcome data reporting requirements for the interpreting physician and the facility have been added. The

outcome data report must include calculations for positive predictive value, cancer detection rate, and recall rate.

Additional changes to §289.230 include reorganizing the rule to mirror the layout of other sections of this chapter, adding survey report requirements, and adding and clarifying definitions for various terms related to mammography machines. The proposal adopts 21 CFR Part 900 by reference for system design, screen-film, processor performance testing, equipment variances, and investigational device requirements. The proposed changes enhance clarity, safety, and regulatory compliance in the field of mammography. Other edits are made to improve grammar, formatting, and rule clarity.

The proposed repeal of §289.234 is necessary to delete an invalid rule.

FISCAL NOTE

Christy Havel Burton, DSHS 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

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

- (1) the proposed rules will eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of DSHS 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 DSHS;
- (5) the proposed rules will not create a new regulation;
- (6) the proposed rules will expand and repeal existing regulations;
- (7) the proposed rules will decrease 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

Christy Havel Burton has also determined that there will be an adverse economic effect on small businesses or micro-businesses, or rural communities because there may be a cost to comply with new data reporting requirements.

DSHS estimates that the number of mammography facilities subject to the proposal for §289.230 is 668. The projected economic impact cannot be determined because the impact is based on the size of the facility and the age of its current software.

DSHS determined that alternative methods to achieve the purpose of the proposed rules for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of the public, employees, and patients.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to comply with federal law: 21 CFR Part 900, and to protect the health, safety, and welfare of the residents of Texas.

PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the anticipated public benefit will be improved protection from unnecessary exposure to radiation for the public, patients, workers, and the environment.

Christy Havel Burton has also determined that for the first five years the rules are in effect, persons required to comply with the proposed rules may incur economic costs because new outcome data reporting requirements may require additional software or increase staff workload. The proposed rules do not increase registration fees or increase the frequency of fee payment.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@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) faxed or emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When faxing or emailing comments, please indicate "Comments on Proposed Rule 24R087" in the subject line.

25 TAC §289.230

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code Chapter 401 (the Texas Radiation Control Act), which provides for DSHS radiation control rules and regulatory program to be compatible with federal standards and regulations; §401.051, which provides the required authority to adopt rules and guidelines relating to the control of sources of radiation; §401.064, which provides for the authority to adopt rules relating to inspection of x-ray equipment; Chapter 401, Subchapter J, which authorizes enforcement of the Act; Chapter 401, Subchapter L, which provides for the Certification of Mammography Systems; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and the administration of Texas Health and Safety Code Chapter 1001.

§289.230. *Certification of Mammography Systems and X-Ray [Mammography] Machines Used for Interventional Breast Radiography.*

(a) Purpose. This section establishes the requirements for using mammography systems and x-ray machines for interventional breast radiography.

(1) Requirements for the registration of a person using radiation machines for mammography.

(A) A person must not use radiation machines except as authorized in a certificate of registration issued by the Department of State Health Services (department) as specified in the requirements of this section.

(B) A person who receives, possesses, uses, owns, or acquires radiation machines before receiving a certificate of registration is subject to the requirements of this chapter.

~~{(1) This section provides for the certification of mammography systems and mammography machines used for interventional breast radiography. No person shall use radiation machines for mammography of humans or for interventional breast radiography except as authorized in a certification issued by the agency in accordance with the requirements of this section. Certification by this agency includes certification of mammography systems and facilities that have received accreditation by the agency accreditation body or by another United States Food and Drug Administration (FDA)-approved accreditation body and certification of mammography machines used for interventional breast radiography.}~~

(2) Mammography [The use of all mammography] machines certified under [in accordance with] this section must [shall] be used [by or] under the supervision of a physician licensed by the Texas Medical Board.

(3) Requirements for specific record keeping and general provisions for records and reports.

(b) Scope.

(1) This section applies to a person who receives, possesses, uses, or transfers radiation machines in mammography facilities. The facility is responsible for the administrative control and oversight of the mammography systems or x-ray machines used for interventional breast radiography.

(2) ~~{(1)}~~ In addition to the requirements of this section, all facilities [registrants] are subject to the requirements of:

(A) §289.203 of this chapter [title] (relating to Notices, Instructions, and Reports to Workers; Inspections);~~;~~[;]

(B) §289.204 of this chapter [title] (relating to Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services);~~;~~[;]

(C) §289.205 of this chapter [title] (relating to Hearing and Enforcement Procedures);~~;~~[;]

(D) §289.226 of this subchapter [title] (relating to Registration of Radiation Machine Use and Services);~~;~~[;] and

(E) §289.231 of this subchapter [title] (relating to General Provisions and Standards for Protection Against Machine-Produced Radiation); and

(F) 21 Code of Federal Regulations (CFR) Part 900, except for facilities subject to subsection (w) of this section. [Mammography facilities choosing to be accredited by the agency accreditation body will be subject to §289.234 of this title (relating to Mammography Accreditation).]

(3) ~~{(2)}~~ The procedures as specified [found] in §289.205 of this chapter relating to [title for] modifications, suspensions, revo-

cations, denials, and hearings regarding certificates of registration are applicable to certifications issued by the department [agency].

(4) ~~[(3)]~~ This section does not apply to an entity under the jurisdiction of the federal government.

(5) ~~[(4)]~~ An entity, ~~[that is a "covered entity" as that term is] defined in [HIPAA (the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as a "covered entity" under] 45 [Code of Federal Regulations (CFR) Parts 160 and 164], may be subject to privacy standards governing how information identifying ~~[that identifies] a patient can be used and disclosed. Failure to follow HIPAA requirements may result in the department referring [making a referral of] a potential violation to the United States Department of Health and Human Services.~~~~

(c) Prohibitions.

(1) The department prohibits the use of radiographic equipment designed for general purpose or special non-mammography procedures for mammographic imaging. This includes systems that have been modified or equipped with special attachments for mammography.

(2) The department prohibits the use of mammography machines posing a significant threat or danger to occupational and public health and safety, as specified in §289.205 and §289.231 of this chapter.

(3) The department prohibits exposing an individual to the useful beam, except for healing arts imaging ordered by a practitioner. This provision specifically prohibits intentional exposure of an individual for:

(A) training, demonstration, or other non-healing arts purposes;

(B) healing arts screening, or self-referral mammography except as authorized by subsection (r) of this section; and

(C) research, except as authorized by subsection (s) of this section.

(4) The department prohibits remote operation of radiation machines.

(d) Exemptions.

(1) Mammography machines or cabinet x-ray machines used exclusively for examination of breast biopsy specimens are exempt from the requirements of this section. These machines are required to meet applicable provisions of §289.226 and §289.228 of this subchapter (relating to Radiation Safety Requirements for Industrial Radiation Machines).

(2) Machines used exclusively for interventional breast radiography are exempt from the requirements of this section except for those listed in subsection (w) of this section. These machines are not required to be accredited by a United States Food and Drug Administration (FDA)-approved accreditation body (AB).

(3) Loaner machines as described in subsection (g)(6) of this section are exempt from the inspection requirements in subsection (v)(1) of this section. These machines are not required to be accredited by an AB.

(4) Mammography machines with investigational device exemptions as described in subsection (s) of this section and used in clinical studies are exempt from the requirements of this chapter. These machines are not required to be accredited by an AB.

(5) All mammography and interventional breast radiography facilities are exempt from the posting of radiation area requirements of §289.231 of this subchapter if the operator has continuous surveillance and controls access to the radiation area.

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

(1) Accreditation--The approved use of a mammography machine by an AB ~~[An approval of a mammography machine within a mammography facility by an accreditation body. A facility may be accredited by the agency accreditation body or another FDA-approved accreditation body].~~

(2) Act--Texas Radiation Control Act, Health and Safety Code Chapter 401.

(3) Action limit--The minimum or maximum value of a quality assurance (QA) measurement representing acceptable performance. Values less than the minimum or greater than the maximum action limit indicate ~~[that] corrective action must be taken by the facility.~~

(4) Additional mammography review (AMR)--A ~~[(includes targeted clinical image reviews)--At the request of the agency certification body or an FDA-approved accreditation body, a] review [by the FDA-approved accreditation body] of clinical images and other relevant facility information necessary to assess compliance [conformance] with [the] accreditation standards. [The reviews include the following:]~~

~~[(A) clinical image review with interpretation; or]~~

~~[(B) clinical image review without interpretation.]~~

(5) Adverse event--An undesirable experience associated with mammography activities ~~[within the scope of this section]. Adverse events include [but are not limited to]:~~

(A) poor image quality;

(B) failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

(C) use of personnel who do not meet the applicable requirements of subsection (h) ~~[(+)]~~ of this section.

(6) Air kerma--The kinetic energy released in air by ionizing radiation. Kerma is the quotient of dE by dM, where dE is the sum of the initial kinetic energies of all the charged ionizing particles liberated by uncharged ionizing particles in air of mass dM. The System International (SI) unit of air kerma is joule per kilogram, and the special name for the unit of kerma is gray (Gy) ~~[Agency accreditation body--For the purpose of this section, the agency as approved by the FDA under Title 21, CFR, §900.3(d) to accredit mammography facilities in the State of Texas].~~

(7) American Registry of Radiologic Technologists-Radiography (ARRT(R))--the credential issued by the American Registry of Radiologic Technologists in radiography ~~[Agency certifying body--For the purpose of this section, the agency, as approved by FDA, under Title 21, CFR, §900.21, to certify facilities within the State of Texas to perform mammography services].~~

~~[(8) Air kerma--The kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For x-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 rad. In air, 1 Gy of absorbed dose is delivered by 114 roentgens (R) of exposure.]~~

(8) [(9)] Automatic exposure control (AEC)--A device [that] automatically controlling [ontrols] one or more technique factors [in order] to obtain the [at preselected locations a] required quantity of radiation at preselected locations.

(9) [(10)] Average glandular dose--The average absorbed dose [aeruing] to the glandular tissue of the breast.

(10) [(11)] Beam-limiting device--A device providing [that provides] a means to restrict the dimensions of the x-ray field.

(11) [(12)] Breast implant--A prosthetic device implanted in the breast.

(12) [(13)] Calendar quarter--Any one of the following time periods during a given year: January 1 - March 31, April 1 - June 30, July 1 - September 30, or October 1 - December 31.

(13) [(14)] Calibration of instruments--The comparative response or reading of an instrument relative to a series of known radiation values over the range of the instrument.

(14) [(15)] Category I continuing medical education units (CMEU)--Educational activities designated as Category I and approved by the Accreditation Council for Continuing Medical Education, the American Osteopathic Association, a state medical society, or an equivalent organization.

(15) [(16)] Certification--An authorization for the use of a mammography system for mammography or x-ray [mammography] machines used for interventional breast radiography.

(16) [(17)] Clinical image--See the definition for mammogram.

(17) [(18)] Contact hour--An hour of training received through direct instruction.

(18) [(19)] Continuing education unit (CEU)--One contact hour of training.

(19) [(20)] Control panel--The [That] part of the radiation machine control upon which are mounted the [switches, knobs, push buttons, and other] hardware necessary for setting the technique factors.

(20) [(21)] Direct instruction--Instruction, including [that includes]:

(A) interaction between an instructor and student [face-to-face interaction between instructor(s) and student(s)], such as when the instructor provides a lecture, conducts demonstrations, or reviews student performance; or

(B) [the] administration and correction of student examinations by an instructor [instructor(s)] with subsequent feedback to the student [student(s)].

(21) [(22)] Direct supervision--Oversight of operations, including [that include] the following.

(A) During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the interpretation [diagnosis] of the physician being supervised and signs the [resulting] report before it is entered into the patient's record.

(B) During performance of a mammography examination, the supervising medical radiologic technologist (MRT) is present to observe and correct, as needed, the individual [who is] performing the examination.

(C) During performance of a survey of the facility's [registrant's] equipment and QA [quality assurance] program, the

supervising medical physicist is present to observe, and correct, as needed, the individual [who is] conducting the survey.

[(23)] Established operating level--The value of a particular quality assurance parameter that has been established as an acceptable normal level by the registrant's quality assurance program.]

(22) [(24)] Facility--A hospital, outpatient department, clinic, radiology practice, mobile unit, an office of a physician, or other person conducting [that conducts] breast cancer screening or diagnosis through mammography activities, including [the following]:

(A) operating [the operation of] equipment to produce a mammogram;

(B) processing [of] film or digital images;

(C) interpreting [initial interpretation of] the mammogram; or

(D) maintaining the viewing conditions for [that] interpretation.

(23) [(25)] FDA-approved accreditation body (AB)--An entity approved by the FDA under [Title] 21 [CFR] §900.3(d) [to] accredit mammography facilities.

(24) [(26)] Final assessment categories--The overall final assessment of findings in a report of a mammography examination [classified in subsection (j)(3)(E) of this section. [one of the following categories]:

[(A)] "negative" indicates nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

[(B)] "benign" is also a negative assessment;

[(C)] "probably benign" indicates a finding(s) that has a high probability of being benign;

[(D)] "suspicious abnormality" indicates a finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

[(E)] "highly suggestive of malignancy" indicates a finding(s) that has a high probability of being malignant;

[(F)] "known biopsy proven malignancy" indicates appropriate action should be taken;

[(G)] "post procedure mammogram" indicates a mammogram to confirm the deployment and position of a breast tissue marker; or]

[(H)] "incomplete" indicates there is a need for additional imaging evaluation and/or prior mammograms for comparison. Reasons why no assessment can be made shall be stated by the interpreting physician.]

(25) [(27)] First allowable time--The earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body.

(26) [(28)] Formal training--Attendance and participation in direct instruction. This does not include self-study programs.

(27) [(29)] Half-value layer (HVL)--The thickness of a specified material attenuating [that attenuates] the beam of radiation to the [an] extent [such that] the exposure rate is reduced to one-half of its original value. [In this definition, the contribution of all scattered radiation, other than any that might be present initially in the beam concerned, is deemed to be excluded.]

(28) [(30)] Healing arts--Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

(29) Healthcare provider--A doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, physician assistant, or nurse practitioner authorized to practice by the state of Texas and performing within the scope of their practice as defined by state law.

(30) [(31)] Image receptor--Any device that transforms incident x-ray photons either into a visible image or into another form that can be made into a visible image by further transformations.

(31) [(32)] Institutional review board (IRB)--Any board, committee, or other group created under 45 CFR Part 46 and 21 CFR Part 56, and formally designated by an institution to review, approve the initiation of, and conduct periodic review of biomedical research involving human subjects.

(32) [(33)] Interpreting physician (IP)--A licensed physician who interprets mammographic images and who meets the requirements of subsection (h)(1) [(+)(1)] of this section.

(33) [(34)] Interventional breast radiography--Imaging of a breast during invasive interventions for localization or biopsy procedures.

(34) [(35)] Investigational device exemption--An exemption allowing an [that allows the] investigational device to be used in a clinical study [in order] to collect safety and effectiveness data required to support a Premarket Approval application or a 510(k) Premarket Notification submission to FDA.

(35) [(36)] Kerma--The sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a material of given mass.

(36) [(37)] Laterality--The designation of either the right or left breast.

(37) [(38)] Lead interpreting physician (LIP)--The interpreting physician assigned the general responsibility for ensuring [that] a facility's QA [quality assurance] program meets all [of the] requirements of subsections (k), (l), and (m) [(+), (+), and (+)] of this section.

(38) [(39)] Mammogram--A radiographic image produced through mammography.

(39) [(40)] Mammographic modality--A technology, within the scope of 42 United States Code (U.S.C.) §263b, for radiography of the breast. Examples are screen-film mammography, [and] full-field digital mammography, and digital breast tomosynthesis (DBT).

(40) [(41)] Mammography--The use of x-rays [x-radiation] to produce an image of the breast that may be used to detect the presence of pathological conditions of the breast. Mammography [For the purposes of this section, mammography] does not include radiography of the breast performed [as follows]:

(A) during invasive interventions for localization or biopsy procedures, except as specified in subsection (w) [(+)] of this section; or

(B) using [with] an investigational mammography device as part of a scientific study conducted under the [in accordance with] FDA's investigational device exemption regulations.

(41) [(42)] Mammography machine--An assemblage of components for mammography. This includes an x-ray high-voltage

generator, x-ray control, tube housing assembly, beam-limiting device, and the necessary supporting structures. Additional components functioning with the machine are considered integral parts of the system. [machine(s)]--A unit consisting of components assembled for the production of x-rays for use during mammography. These include, at a minimum, the following:]

{(A) an x-ray generator;}

{(B) an x-ray control;}

{(C) a tube housing assembly;}

{(D) a beam limiting device; and}

{(E) supporting structures.}

(42) [(43)] Mammography medical outcomes audit--A systematic collection of mammography results and the comparison of those results [compared] with outcomes data.

(43) [(44)] Mammography system--A system, including [that includes the following]:

(A) an x-ray machine used as a source of radiation in producing images of breast tissue;

(B) an imaging system used for the formation of a latent image of breast tissue;

(C) an imaging-processing device for changing a latent image of breast tissue to a visual image that can be used for diagnostic purposes;

(D) a [viewing] device used for viewing and evaluating [the visual evaluation of] an image of breast tissue [if the image is produced in interpreting visual data captured on an image receptor];

(E) an MRT who meets the qualifications specified in subsection (h)(2) of this section and [a medical radiologic technologist who] performs mammography; and

(F) a physician who interprets [engages in] mammography and [who] meets the requirements specified in subsection (h)(1) of this section [relating to the reading, evaluation, and interpretation of mammograms].

(44) [(45)] Mandatory training--Additional training required by the department [agency certifying body] or AB [FDA-approved accreditation body] for IPs [interpreting physicians], MRTs [medical radiologic technologists], or medical physicists as the result of a required corrective action.

[(46) Mean optical density--The average of the optical densities measured using uniform, defect-free absorber thicknesses of 2, 4, and 6 centimeters (cm) with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.]

(45) [(47)] Medical physicist--An individual who performs surveys and evaluations of mammographic equipment and facility QA [quality assurance] programs as specified in [accordance with] this section and who meets the qualifications in subsection (h)(3) [(+)(3)] of this section.

(46) [(48)] Medical radiologic technologist (MRT [operator of equipment])--An individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations, who performs mammography examinations as specified in [accordance with] this section and who meets the qualifications in subsection (h)(2) [(+)(2)] of this section.

(47) [(49)] Mobile service operation--The provision of mammography machines and personnel at temporary sites to perform mammography for limited time periods.

(48) [(50)] Multi-reading--Two or more physicians interpreting the same mammogram. At least one physician must [shall] be qualified as an IP [interpreting physician].

(49) Operator--An individual who performs interventional breast mammography examinations.

(50) [(51)] Optical density (OD)--A measure of the fraction of incident light transmitted through a developed film and defined by the equation:

Figure: 25 TAC §289.230(e)(50)

[Figure: 25 TAC §289.230(e)(51)]

(51) [(52)] Patient--Any individual who undergoes a mammography examination in a facility, regardless of whether the individual [person] is referred by a physician or is self-referred.

(52) [(53)] Phantom--A test object used to simulate radiographic characteristics of compressed breast tissue and containing components modeling [that radiographically model] aspects of breast disease and cancer in a radiograph.

(53) [(54)] Phantom image--A radiographic image of a phantom.

(54) [(55)] Physical science--This includes physics, chemistry, radiation science (including medical physics and health physics), and engineering.

(55) Physician--An individual licensed by the Texas Medical Board to practice medicine under Texas Occupations Code Chapter 155.

(56) Positive mammogram--A mammogram with [that has] an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

[(57) Practitioner of the healing arts (practitioner)--For the purposes of this section, a person licensed to practice healing arts by the Texas Medical Board as a physician.]

(57) [(58)] Provisional certification--A certification category enabling a facility to perform mammography and obtain the clinical images needed to complete the accreditation process [provisional authorization described in subsection (g) of this section].

(58) [(59)] Qualified instructor--An individual whose training and experience prepares the qualified instructor [him or her] to carry out specified training assignments. IPs [Interpreting physicians], MRTs [medical radiologic technologists], or medical physicists who meet the requirements of subsection (h)[(†)] of this section are [would be] considered qualified instructors in their respective areas of mammography. Other examples of an individual [individuals] who may be a qualified instructor [instructors] for the purpose of providing training to meet the requirements of this section include; but are not limited to, instructors in a post-high school training institution and manufacturers' representatives.

(59) [(60)] Quality control (QC) technologist--An individual meeting the requirements of subsection (h)(2)[(†)(2)] of this section who is responsible for those QA [quality assurance] responsibilities not assigned to the LIP [lead interpreting physician] or to the medical physicist.

(60) [(61)] Radiation machine--see definition for [For the purposes of this part, radiation machine also means] mammography machine.

(61) [(62)] Self-referral mammography--The use of x-ray [x-radiation] to test asymptomatic women for the detection of diseases of the breasts when such tests are not specifically and individually ordered by a licensed physician.

(62) [(63)] Serious adverse event--An adverse event that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

(63) [(64)] Serious complaint--A report of a serious adverse event.

(64) [(65)] Source-to-image receptor distance (SID)--The distance from the source to the center of the input surface of the image receptor.

(65) [(66)] Standard breast--A 4.2 cm thick compressed breast consisting of 50 percent [%] glandular tissue and 50 percent [%] adipose tissue.

(66) [(67)] Survey--An on-site physics consultation and evaluation of a facility QA [quality assurance] program performed as specified in subsection (l)(5) of this section by a medical physicist meeting the requirements of subsection (h)(3) of this section.

(67) [(68)] Technique chart--A chart providing [that provides] all necessary generator control settings and geometry needed to make clinical radiographs.

(68) [(69)] Traceable to a national standard--Calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory participating [that participates] in a proficiency program with NIST at least once every two years. The results of the proficiency test conducted within 24 months of calibration must [shall] show agreement within plus or minus 3.0 percent [%] of the national standard in the mammography energy range.

[(d) Prohibitions.]

[(1) Radiographic equipment designed for general purpose or special nonmammography procedures shall not be used for mammography. This includes systems that have been modified or equipped with special attachments for mammography.]

[(2) The agency may prohibit use of mammography machines that pose a significant threat or endanger public health and safety, in accordance with §289.231 of this title and §289.205 of this title.]

[(3) Individuals shall not be exposed to the useful beam except for healing arts purposes and unless such exposure has been authorized by a licensed physician. This provision specifically prohibits intentional exposure for the following purposes:]

[(A) exposure of an individual for training, demonstration, or other non-healing arts purposes;]

[(B) exposure of an individual for the purpose of healing arts screening (self referral mammography) except as authorized by subsection (bb) of this section; and]

[(C) exposure of an individual for the purpose of research except as authorized by subsection (cc) of this section.]

[(e) Exemptions.]

[(1) Mammography machines or cabinet x-ray machines used exclusively for examination of breast biopsy specimens are exempt from the requirements of this section. These machines are required to meet applicable provisions of §289.226 of this title and

§289.228 of this title (relating to Radiation Safety Requirements for Analytical and Other Industrial Radiation Machines).]

[(2) Mammography machines used exclusively for interventional breast radiography are exempt from the requirements of this section except for those listed in subsection (gg) of this section. These machines are not required to be accredited by an FDA-approved accreditation body.]

[(3) Loaner machines as described in subsection (n)(5) of this section are exempt from the inspection requirements in subsection (ff) of this section. These machines are not required to be accredited by an FDA-approved accreditation body.]

[(4) Mammography machines with investigational device exemptions as described in subsection (ee) of this section and used in clinical studies are exempt from the requirements of this chapter. These machines are not required to be accredited by an FDA-approved accreditation body.]

[(5) All mammography registrants are exempt from the posting of radiation area requirements of §289.231(x) of this title provided that the operator has continuous surveillance and access control of the radiation area.]

(f) Mammography systems certification.

(1) [(f)] Requirements for [mammography systems] certification.

(A) [(1)] A facility must [To obtain a certification, facilities shall] meet the quality standards in subsections (h) - (q) [(t) - (aa)] of this section and be accredited by an AB. To [FDA-approved accreditation body. In order to] qualify for certification, a new facility [facilities] must apply to the department [agency certifying body in accordance with the following requirements and to an FDA-approved accreditation body] and receive acceptance of an [the] accreditation application by an AB. [If the facility chooses to be accredited by the agency accreditation body, the facility shall submit the information required in this subsection and §289.234(d) of this title.]

(B) [(2)] A person who receives, possesses, uses, owns, or acquires [Each person having] a mammography machine must apply for certification as specified [shall submit an application] in [accordance with] §289.226(e) of this subchapter, relating to general requirements for application for registration, [(1) - (3) and (5) - (7) and (f)(4) - (5) of this title.] and receive certification from the department [agency certifying body] before using a [beginning use of the] mammography machine on humans.

(C) [(3)] An application for certification must [shall] be signed by the [lead interpreting physician. The signature of the applicant and the radiation safety officer (RSO) shall also be required.]

(i) LIP;

(ii) applicant; and

(iii) [(4)] radiation safety officer (RSO) [An application for certification may contain information on multiple mammography machines. Each mammography machine must be identified by referring to the machine's manufacturer, model name, and serial number on the control panel. If this is not a new certification, the registrant shall maintain and provide proof of current accreditation. If accreditation expires before the expiration of the certification, the registrant shall submit proof of renewed status to the agency.].

(D) [(5)] Each applicant must [shall] submit documentation of [the following]:

(i) [(A)] personnel qualifications, including dates of licensure or certification, as specified in [accordance with] subsection (h) [(t)] of this section;

(ii) [(B)] manufacturer, model name, and serial number of each mammography machine control panel;

(iii) [(C)] evidence that a medical physicist has:

(I) [(t)] [has] determined [that] each machine meets the equipment standards in subsection (i) [(s)] of this section;

(II) [(tt)] [has] performed a survey and a mammography equipment evaluation as specified in [accordance with] subsection (1)(5) and (6) [(v)(10) and (11)] of this section; and

(III) [(ttt)] [has] determined [that] the average glandular dose for one craniocaudal [eraniocaudal-caudal] view for each machine is less than [does not exceed] the value in subsection (i)(11)(D) [(v)(5)(F)] of this section;

(iv) [(D)] self-referral program information as specified in [accordance with] subsection (r) [(bb)] of this section, if the facility offers self-referral mammography; [and]

(v) [(E)] items required for authorization of a mobile service operation as specified in [accordance with] §289.226(g) of this subchapter, relating to application for registration of mobile service operations [title], if the facility provides a mobile service; and [.]

(vi) proof of current accreditation.

(2) [(g)] Issuance of certification [and provisional certification].

[(1)] [Certification.] A certification will be issued if the department [agency certifying body] determines the [that an] application meets the requirements of the Act and [the requirements of] this chapter. The certification authorizes the proposed operations and includes [activity in such form and contains such] conditions and limitations deemed necessary by [as] the department [agency certifying body] deems appropriate or necessary.]

(A) The certification may include [one of the following]:

(i) [(A)] mammography systems and facilities certification, following approval of accreditation by an AB [FDA-approved accreditation body]; or

(ii) [(B)] certification of interventional breast radiography machines.

(B) [(2)] Conditions [Requirements and conditions]. The department [agency certifying body] may incorporate in the certification at the time of issuance, or [thereafter] by amendment, [such] additional requirements and conditions [with respect to the registrant's possession, use, and transfer of radiation machines subject to this chapter as it deems appropriate or necessary in order] to:

(i) [(A)] minimize danger to occupational and public health and safety;

(ii) [(B)] require additional reporting and record keeping [reports and the keeping of additional records as may be appropriate or necessary]; and

(iii) [(C)] prevent loss or theft of radiation machines subject to this section.

(C) [(3)] Additional information. The department [agency certifying body] may request[, and the registrant shall provide,] additional information after the certification has been issued to

enable the department [agency certifying body] to determine whether the certification should be modified as specified in [accordance with] §289.226(r) of this subchapter, relating to renewal of certificates of registration [title].

(3) [(4)] Provisional certification [application]. A new facility is eligible to apply for a provisional certification. The provisional certification will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process].

(A) To apply for and receive a provisional certification, a new facility must meet the requirements of this chapter and submit the necessary information to an AB [FDA-approved accreditation body]. If the facility chooses to be accredited by the agency accreditation body, the facility shall submit the information required in subsection (f) of this section and §289.234(d) of this title to the agency accreditation body].

(B) [(5)] [Issuing provisional certifications]. Following the department's [agency certifying body's] receipt of the accreditation body's decision that a facility has submitted the required information, the department [agency certifying body] may issue a provisional certification to a facility if [upon determination that] the facility has satisfied the requirements of the Act and this chapter.

(i) A provisional certification is [shall be] effective for up to six months as noted on the certificate [from the date of issuance].

(ii) A provisional certification cannot be renewed, but a facility may apply for a 90-day extension of the provisional certification. [(6) Extension of provisional certification. Extension of provisional certifications shall be in accordance with the following.]

(C) [(A)] To apply for a 90-day extension to a provisional certification, a facility must [shall] submit to the AB [FDA-approved accreditation body] who issued the original certificate, a statement of actions taken [what the facility is doing] to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if [the] [such] facility did not obtain an extension.

(i) [(B)] The department [agency certifying body] may issue a 90-day extension for a provisional certification if [upon determination that] the extension meets the criteria in paragraph (3) [(4)] of this subsection.

(ii) [(C)] Renewal [There can be no renewal] of a provisional certification beyond the 90-day extension is prohibited.

(4) [(7)] Reinstatement [policy].

(A) A previously certified facility that has allowed its certification to expire, [that has] been refused a renewal of its certification by the department [agency certifying body], or [that has] had its certification suspended or revoked by the department [agency certifying body], may reapply to have the certification reinstated so [that] the facility may be considered [to be] a new facility and thereby be eligible for a provisional certification.

(B) [(A)] Unless prohibited from reinstatement as specified in [under] subsection (f)(5) [(h)(5)] of this section, a facility applying for reinstatement must [shall]:

(i) contact an AB [FDA-approved accreditation body] for reapplication of [for] accreditation;

(ii) provide documentation of [fully document] its history as a previously provisionally certified or certified mammography facility, and include [including] the [following information]:

(I) name and address of the facility under which it was previously provisionally certified or certified;

(II) name of previous owner or lessor [owner/lessor];

(III) facility identification number assigned to the facility under its previous certification by the FDA or the department [agency certifying body]; and

(IV) expiration date of the most recent FDA or department [agency] provisional certification; and

(iii) justify application for reinstatement of accreditation by submitting to an AB [FDA-approved accreditation body] a corrective action plan detailing [that details] how the facility has corrected deficiencies contributing [that contributed] to the lapse [of], denial of renewal, or revocation of its certification.

(C) [(B)] The department [agency certifying body] may issue a provisional certification to the facility if the department [agency] determines [that] the facility has:

(i) [has] adequately corrected, or is in the process of correcting, pertinent deficiencies; and

(ii) [has] taken sufficient corrective action since the lapse [of], denial of renewal, or revocation of its previous certification.

(D) [(C)] After receiving the provisional certification, the facility may lawfully perform mammography while completing the requirements for accreditation and certification.

(5) [(h)] Suspension or revocation of certification.

(A) [(4)] Except as provided in subparagraph (B) of this paragraph [(2) of this subsection], the department [agency certifying body] may suspend or revoke a certification issued by the department [agency certifying body] if it finds, after providing the owner or [operator of the] facility representative with notice and an opportunity for a hearing as specified in [accordance with] §289.205 of this chapter [title], that the owner, facility representative [operator], or any employee of the facility has:

(i) [(A)] misrepresented documentation to obtain [has been guilty of misrepresentation in obtaining] the certification;

(ii) [(B)] [has] failed to comply with the requirements of this chapter;

(iii) [(C)] [has] failed to comply with requests of the department [agency certifying body] or an AB [FDA-approved accreditation body] for records, information, reports, or materials [that are] necessary to determine the continued eligibility of the facility for a certification or continued compliance with the requirements of this chapter;

(iv) [(D)] [has] refused a request of a duly designated FDA inspector, state inspector, or an AB [FDA-approved accreditation body] representative for permission to inspect the facility or the operations and pertinent records of the facility;

(v) [(E)] [has] violated or aided and abetted in the violation of any provision of or regulation promulgated pursuant to the requirements of the Act and the requirements of this chapter; or

(vi) [(F)] [has] failed to comply with prior sanctions imposed by the department as specified in [agency certifying body under] §289.205 of this chapter [title].

(B) [(2)] The department [agency certifying body] may suspend a certification of a facility before holding a hearing if it makes a

finding described in subparagraph (A) [paragraph (1)] of this paragraph [subsection] and [also] determines that:

(i) [(A)] the failure to comply with requirements presents a serious risk to human health;

(ii) [(B)] the refusal to permit inspection makes immediate suspension necessary; or

(iii) [(C)] there is reason to believe [~~that~~] the violation or aiding and abetting of the violation was intentional or associated with fraud.

(C) [(3)] If the department [agency certifying body] suspends a certification as specified in subparagraph (B) of this [accordance with] paragraph (2) of this subsection:

(i) [(A)] the department will [agency certifying body shall] provide the facility with an opportunity to request [~~for~~] a hearing as specified in [under] §289.205 of this chapter [not later than 60 days from the effective date of this suspension]; and

(ii) [(B)] the suspension will [shall] remain in effect until it is determined by the department [agency certifying body determines] that the:

(I) [(1)] [~~the~~] allegations of violations or misconduct were not substantiated;

(II) [(2)] [~~the~~] violations of requirements have been corrected to the department's [agency certifying body's] satisfaction; or

(III) [(3)] [~~the~~] certification is revoked as specified in subparagraph (D) [accordance with paragraph (4)] of this paragraph [section].

(D) [(4)] After providing a hearing as specified in §289.205 of this chapter [accordance with paragraph (3)(A) of this subsection], the department [agency certifying body] may revoke the certification if it is determined by the department [agency determines] that the facility:

(i) [(A)] is unwilling or unable to correct violations that were the basis for suspension; or

(ii) [(B)] has engaged in fraudulent activity to obtain or continue certification.

(E) [(5)] If a facility's certification was revoked based on [~~on the basis of~~] an act described in §289.205 of this chapter, a [~~no~~] person who owned or operated that facility at the time the act occurred is prohibited from owning [~~may own or operate~~] a mammography facility for [~~within~~] two years following [~~of~~] the [~~date of~~] revocation date.

(6) [(1)] Appeal of adverse accreditation or reaccreditation decisions preventing [~~that preclude~~] certification or recertification.

(A) [(1)] The appeal process described in this paragraph [subsection] is only available [~~only~~] for adverse accreditation or reaccreditation decisions preventing [~~that preclude~~] certification by the department. If the department suspends or revokes a certificate [agency certifying body. Agency certifying body decisions to suspend or revoke certificates that are] already in effect, it will be handled as specified in [accordance with] subsection (f)(5) [(h)] of this section.

(B) [(2)] If [Upon learning that] a facility has failed to become accredited or reaccredited, the department [agency certifying body] will notify the facility that the department [agency certifying body] is unable to certify the [~~that~~] facility without proof of accreditation.

(C) [(3)] A facility that has been denied accreditation or reaccreditation and cannot achieve satisfactory resolution of an adverse accreditation decision through the AB's [FDA-approved accreditation body's] appeal process is entitled to further appeal to the FDA.

(D) [(4)] A facility cannot perform mammography services while an adverse accreditation decision is being appealed.

(7) [(1)] Denial of certification.

(A) [(1)] The department [agency certifying body] may deny the application if the department [agency certifying body] has reason to believe that:

(i) [(A)] the facility will not be operated as specified in [accordance with] the provisions of subsections (h) - (q) [(1) - (aa)] of this section;

(ii) [(B)] the facility will not permit inspections or provide access to records or information [~~in a~~] timely [~~fashion~~];

(iii) [(C)] [~~made a materially~~] [~~any material~~] false statement in the application or any statement of fact required under provision of the Act [~~was made~~];

(iv) [(D)] [~~conditions~~] revealed by such application or statement of fact or any report, record, inspection, or other means that would warrant the department [agency certification body] to refuse to grant a certification of mammography facility on an original application; or

(v) [(E)] the facility failed to observe any of the terms and conditions of the Act, this chapter, or order of the department [agency].

(B) [(2)] Before the department [agency certification body] denies an application for certification, the department must [agency shall] give notice of the denial, the facts warranting the denial, and [~~shall~~] afford the applicant an opportunity for a hearing in accordance with §289.205(h) of this chapter [~~title~~]. If no request for a hearing is received by the director of the Radiation Control Program within 30 days of date of receipt of the notice, the department [agency] may proceed to deny. The applicant must bear [~~shall have~~] the burden of proof showing cause why the application should not be denied.

(C) [(3)] If the department [agency certifying body] denies an application for certification from [~~by~~] a facility that has received accreditation from an AB [FDA-approved accreditation body], the department will [agency certifying body shall] provide the facility with a written statement of the grounds on which the denial is based.

(8) [(1)] Appeals of a certification denial [Appeals of denial of certification].

(A) [(1)] The appeals procedures described in this paragraph [subsection] are available only to facilities that are denied certification by the department [agency certifying body] after they have been accredited by an AB [FDA-approved accreditation body]. Appeals for facilities that have failed to become accredited with the agency accreditation body shall be in accordance with §289.234(h) of this title.

(B) [(2)] A facility that has been denied certification may request reconsideration and appeal the department's [~~of the agency certifying body's~~] determination as specified in [accordance with] the applicable provisions of §289.205(h) of this chapter [~~title~~].

(9) [(1)] Modification of certification. Modification of a certification will follow the requirements in §289.226(s) of this subchapter, relating to modification, suspension, and revocation of certifi-

cates of registration [shall be in accordance with §289.226(r) of this title].

(10) ~~[(m)]~~ Specific terms and conditions of certification. Specific terms and conditions of certification will [shall] be as specified in [accordance with] §289.226(l) of this subchapter, relating to terms and conditions of certificates of registration [title].

(11) Renewal of certification.

(A) A certification for a mammography system is valid for three years from the date of issuance unless the certification of the facility is suspended or revoked before such deadlines.

(B) A mammography facility filing an application for renewal of their certification must meet the quality standards in subsections (h) - (q) of this section and be accredited by an AB. The renewal must include a list of all IPs, MRTs, and medical physicists practicing at the facility and must be filed as specified in:

(i) §289.226(r) of this subchapter, relating to renewal of certificates of registration;

(ii) §289.204(d) and (g) of this chapter, relating to payment of fees;

(iii) subsection (f)(1)(C) of this section; and

(iv) subsection (f)(1)(D)(i) of this section.

(C) A mammography facility filing an application for renewal before the existing certification expires may continue to perform mammography until the application status has been determined by the department.

(D) A facility with mammography machines used for interventional breast radiography must apply for renewal as specified in subsection (w)(5) of this section and pay the fee specified in §289.204(d) of this chapter.

(12) Expiration of certification.

(A) Each certification expires at the end of the day on the expiration date listed on the mammography certificate unless the certificate is suspended or revoked before the expiration date. Expiration of the certification does not relieve the facility of the requirements of this chapter.

(B) If a facility does not apply for renewal of the certification as specified in paragraph (11) of this subsection, as applicable, the facility must:

(i) terminate use of all mammography machines;

(ii) notify the department in writing of the storage location of mammography images and address how the requirements of subsection (j)(7)(E) of this section will be met;

(iii) pay any outstanding fees specified in §289.204 of this chapter; and

(iv) submit a record of the disposition of the mammography machine to the department.

(13) Termination of certification. When a facility decides to terminate all activities involving mammography machines authorized under the certification, the facility must:

(A) notify the department and the AB within 30 days;

(B) request termination of the certification in writing;

(C) pay any outstanding fees specified in §289.204 of this chapter;

(D) notify the department, in writing, of the storage location of mammography images and address how the requirements of subsection (j)(7)(E) of this section will be met; and

(E) submit a record of the disposition of the mammography machine to the department.

(g) ~~[(n)]~~ Responsibilities of the facility [registrant].

(1) In addition to the requirements of §289.226(m)(3) - (7) of this subchapter, relating to responsibilities of the registrant, the facility must [title, a registrant shall] notify the department [agency certifying body] in writing, within 30 days, of [prior to] any changes rendering [that would render] the information contained in the application or the certification inaccurate, including the[-]. These include but are not limited to the following[.]:

(A) name of the facility; [and]

(B) mailing address;

(C) [(B)] street address where the machine is [machine(s) will be] used; [and]

[(C) mammography machines.]

(D) addition or removal of any mammography machine; or

(E) name and qualifications of the RSO or LIP.

(2) Before [Prior to] employing an individual [the individuals] listed in subparagraphs (A) - (E) of this paragraph, the facility [registrant] is required to verify and maintain a copy [copies] of the [their] qualifications of the [-]. If a facility makes a change in the RSO, the qualifications of the RSO shall be submitted to the agency within 30 days of such change. Written notification of a change in any of the following in subparagraphs (B) - (E) of this paragraph is required within 30 days of such change[.]:

(A) RSO [radiation safety officer];

(B) LIP [lead interpreting physician];

(C) IP [interpreting physicians];

(D) MRT [medical radiologic technologists]; or

(E) medical physicist.

(3) A facility [Registrants] utilizing an IP [interpreting physicians] or MRT [technologists] from a temporary staffing service must [shall] verify and maintain copies of the qualifications of these individuals for inspection by the department [agency]. The registrant does not need to notify the agency certifying body unless these personnel will be at the facility for a period exceeding four weeks[.].

(4) For accreditation, a facility adding or replacing a mammography machine must have a current accreditation or apply to the AB, unless exempted by subsection (d) of this section [All mammography facilities installing new or replacement mammography machines shall have either current accreditation or have submitted an application to an FDA-approved accreditation body for review unless exempted by subsection (e)(1) - (3) of this section. A mammography machine shall not be used to perform mammograms if an application for accreditation for that machine has been denied, or if the accreditation has been suspended or expired].

(5) For certification, a facility with an existing certificate may begin using a new or replacement machine before receiving an updated certificate if the facility submits to the department and AB an application with a medical physicist report as specified in subsection (l)(5) and (6) of this section [A facility with an existing certification

may begin using a new or replacement machine before receiving an updated certification if the registrant submits to the agency certifying body and to the FDA-approved accreditation body, documentation with a medical physicist's report in accordance with subsection (v)(10) and (11) of this section, verifying compliance of the new machine with this section. The medical physicist's report is required prior to using the machine on patients].

(6) Loaner mammography machines may be used on patients for 60 days without adding the mammography machine to the certification. A medical physicist's report verifying compliance of the loaner mammography machine with this section must [shall] be completed before [prior to] use on patients. The results of the survey must be submitted to the department [agency] with a cover letter indicating period of use. If the use period will exceed 60 days, the facility must [shall] add the mammography machine to its certification and a fee will be assessed.

(7) Records of training and experience and all other records required by this section must [shall] be maintained for review as specified in [accordance with] subsection (x) [(ee)] of this section.

[(o) Renewal of certification.]

[(1) A certification for a mammography system is valid for three years from the date of issuance unless the certification of the facility is suspended or revoked prior to such deadlines.]

[(2) A mammography facility filing an application for renewal of their certification shall meet the quality standards in subsections (r) - (aa) of this section and be accredited by an FDA-approved accreditation body. The renewal shall be filed in accordance with the following:]

[(A) §289.226(e)(1) - (3), (5) and (7) of this title and §289.226(f)(4) and (5) of this title:]

[(B) signatures of appropriate personnel in accordance with subsection (f)(3) of this section:]

[(C) machine information and medical physicist's survey in accordance with subsection (f)(5)(B) and (C) of this section:]

[(D) fees in accordance with §289.204 of this title; and]

[(E) a list of all interpreting physicians, medical radiologic technologists and medical physicists practicing at the facility.]

[(3) A mammography facility filing an application for renewal before the existing certification expires may continue to perform mammography until the application status has been determined by the agency.]

[(4) A facility with mammography machines used for interventional breast radiography shall file an application for renewal in accordance with subsection (gg)(8) of this section and pay the fee required by §289.204 of this title.]

[(p) Expiration of certification.]

[(1) Except as provided by subsection (o) of this section, each certification expires at the end of the day in the month and year stated on the mammography certificate. Expiration of the certification does not relieve the registrant of the requirements of this chapter.]

[(2) If a registrant does not submit an application for renewal of the certification under subsection (o) of this section, as applicable, the registrant shall on or before the expiration date specified in the certification:]

[(A) terminate use of all mammography machines;]

[(B) notify the agency certifying body in writing of the film storage location of mammography patients' films and address how the requirements of subsection (t)(4)(D) of this section will be met;]

[(C) pay any outstanding fees in accordance with §289.204 of this title; and]

[(D) submit a record of the disposition of the mammography machine(s) to the agency certifying body. If the machine(s) was transferred, include to whom it was transferred.]

[(q) Termination of certification. When a registrant decides to terminate all activities involving mammography machines authorized under the certification, the registrant shall:]

[(1) notify the agency certifying body and the FDA-approved accreditation body immediately;]

[(2) request termination of the certification in writing;]

[(3) pay any outstanding fees in accordance with §289.204 of this title;]

[(4) notify the agency certifying body, in writing, of the film storage location of mammography patients' films and address how the requirements of subsection (t)(4)(D) of this section will be met; and]

[(5) submit a record of the disposition of the mammography machine(s) to the agency certifying body. If the machine(s) was transferred, include to whom it was transferred.]

[(r) [(t)] Personnel qualifications. The following requirements apply to all personnel involved in any aspect of mammography, including the production and interpretation of mammograms.

(1) Interpreting physician. Each physician interpreting mammograms must [shall] hold a current Texas license issued by the Texas Medical Board and meet the following qualifications.

(A) Initial qualifications. Before interpreting mammograms independently, the physician must [shall]:

(i) be certified by the American Board of Radiology, the American Osteopathic Board of Radiology, or one of the other bodies approved by the FDA to certify IPs [interpreting physicians] or have at least three months of documented formal training in the interpretation of mammograms and in topics related to mammography as specified in subparagraph (B) of this paragraph [accordance with subsection (hh)(2) of this section];

(ii) have completed [had] a minimum of 60 hours of documented category I CMEUs in mammography and at [: At] least 15 of the 60 hours must [shall] have been acquired within three years immediately before [prior to] the date [that] the physician became qualified as an IP (hours [interpreting physician: Hours] spent in residency specifically devoted to mammography will be equivalent to category I CMEUs and accepted if documented in writing by the appropriate representative of the training institution); and

(iii) have interpreted or multi-read, under the direct supervision of an IP [interpreting physician], at least 240 mammographic examinations within the six-month period immediately before [prior to] the date that the physician qualifies as an IP. The supervising interpreting physician's presence is not required when the physician being supervised makes the initial interpretation. However, the supervising physician must review and, if necessary, correct the final interpretation before it is given to the patient [interpreting physician].

(B) Subjects to be included in mammography training for interpreting physicians must include:

(i) radiation physics, including radiation physics specific to mammography;

(ii) radiation effects;

(iii) radiation protection; and

(iv) interpretation of mammograms. This must be under the direct supervision of a physician who meets the requirements of paragraph (1) of this subsection.

(C) [(B)] Exemptions.

(i) A physician [Physicians who] qualified as an IP as specified [interpreting physicians] in [accordance with] the requirements of §289.230 that were in effect before [prior to] April 28, 1999, or any other equivalent state or federal requirements in effect before [prior to] April 28, 1999, is [are] considered to have met the initial requirements of subparagraph (A) of this paragraph.

(ii) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an IP [interpreting physician] in any six-month [six month] period during the last two years of a diagnostic radiology residency and who became board certified at the first allowable time, are exempt from subparagraph (A)(iii) of this paragraph.

(D) [(C)] Continuing education. [and experience. The time period for completing continuing education is a 36-month period and the time period for completing continuing experience is a 24-month period. These periods begin when a physician completes the requirements to become an interpreting physician in subparagraph (A) of this paragraph. The facility shall choose one of the dates in clause (i) of this subparagraph to determine the 36-month continuing education period and one of the dates in clause (ii) of this subparagraph to determine the 24-month continuing experience period. Each interpreting physician shall maintain qualifications by meeting the following requirements:]

(i) Each IP must maintain continuing education by completing at least 15 category I mammography CMEUs, in a rolling 36-month period, by participating in or teaching mammography courses. CMEUs earned through teaching a specific course can only be counted once during the 36-month period. [participating in education programs by completing at least 15 category I CMEUs in mammography or by teaching mammography courses. CMEUs earned through teaching a specific course can be counted only once during the 36-month period. The continuing education must be completed in the 36 months immediately preceding:]

(I) The period for the initial continuing education begins when a physician completes the requirements in subparagraph (A) of this paragraph. [the date of the registrant's annual inspection;]

(II) The facility chooses one of the dates in subclause (III) of this clause to determine the start of the subsequent 36-month continuing education period. [the last day of the calendar quarter preceding the inspection; or]

(III) Continuing education must be completed in the 36 months immediately preceding: [any date in between the two;]

(-a-) the date of the facility's inspection;

(-b-) the last day of the calendar quarter preceding the inspection; or

(-c-) any date in between the two.

(ii) Each IP must complete at least eight hours of training in any mammography modality in which the IP has not been previously trained, before independently using the new modality. [interpreting or multi-reading at least 960 mammographic exami-

nations that must be completed during the 24 months immediately preceding:]

[(I) the date of the registrant's annual inspection;]

[(II) the last day of the calendar quarter preceding the inspection; or]

[(III) any date in between the two; and]

[(iii) accumulating at least eight hours of CMEUs in any mammography modality in which the interpreting physician has not been previously trained; prior to independently using the new modality.]

(E) Continuing experience.

(i) Each IP must maintain continuing experience by interpreting or multi-reading at least 960 mammographic examinations.

(ii) The period for the initial continuing experience begins when a physician completed the requirements in subparagraph (A) of this paragraph.

(iii) The facility chooses one of the dates in clause (iv) of this subparagraph to determine the start of the subsequent 24-month continuing experience period.

(iv) Continuing experience must be completed in the 24 months immediately preceding:

(I) the date of the facility's inspection;

(II) the last day of the calendar quarter preceding the inspection; or

(III) any date in between the two.

(F) [(D)] Re-establishing qualifications. Before resuming independent interpretation of mammograms, an IP failing [interpreting physicians who fail] to maintain the required continuing education or experience must [requirements shall] re-establish their qualifications by completing one or both of the following requirements, as applicable:

(i) obtain [a sufficient number of] additional category I CMEUs to bring the [their] total up to [the] 15 category I CMEU credits required in the previous 36 months; [and/or]

(ii) within the six months immediately before [prior to] resuming independent interpretation and under the direct supervision of a physician qualified as an IP [interpreting physician], interpret or multi-read one of the following, whichever is less:

(I) at least 240 mammographic examinations; or

(II) additional [a sufficient number of] mammographic examinations to bring the total up to 960 examinations for the prior 24 months.

(G) [(E)] Additional mandatory training. Additional mandatory training may be required by the department [agency] based on the recommendations of an AB, the department, [the American College of Radiology] or the FDA. Training is [Such training will be] developed on a case-by-case [ease by ease] basis.

(i) The department [agency] may require pre-approval of any additional mandatory training.

(ii) Documentation of the additional mandatory training must [shall] be submitted for review by the date specified by the department [agency].

(iii) Records of all additional mandatory training must [shall] be maintained by the facility [registrant] for inspection by the department as specified [agency] in [accordance with] subsection (x)(3)[(ee)(3)] of this section.

(2) Medical radiologic technologists (MRTs [operators of equipment]). Each individual [person] performing mammographic examinations must maintain current credentials as an ARRT(R) and MRT as specified in [shall have current certification as a medical radiologic technologist under] the Medical Radiologic Technologist Certification Act, Texas Occupations Code[;] Chapter 601, and must [shall] meet the following qualifications.

(A) Initial requirements. Before performing mammographic examinations, the MRT must [operator of equipment shall have]:

(i) complete [completed] a minimum of 40 contact hours of training as specified [outlined] in subparagraph (B) [subsection (hh)(4)] of this paragraph [section] by a qualified instructor; and

(ii) perform [performed] a minimum of 25 mammographic examinations under the direct supervision of an individual qualified as specified in [accordance with the requirements of] this paragraph. The 25 mammographic examinations may be obtained concurrently with the 40 contact hours of training specified in clause (i) of this subparagraph but must [shall] not exceed 16 hours of the 40 contact hours.

(B) Subjects to be included in mammography training for an MRT must include the following:

(i) breast anatomy and physiology;

(ii) positioning and compression;

(iii) QA/QC techniques;

(iv) imaging of patients with breast implants; and

(v) at least eight hours of training in each mammography modality to be used by the MRT in performing mammography examinations.

(C) [(B)] Exemptions. MRTs [Equipment operators who] qualified [as medical radiologic technologists] to perform mammography as specified in [accordance with] the requirements of §289.230 that were in effect before [prior to] April 28, 1999, and any other federal requirements in effect before [prior to] April 28, 1999, are considered to have met the initial requirements of subparagraph (A) of this paragraph.

(D) [(E)] Continuing education. [and experience. The time period for completing continuing education is a 36-month period and the time period for completing continuing experience is a 24-month period. The period for continuing education begins when a technologist completes the requirements in subparagraph (A) of this paragraph. The period for continuing experience begins when a technologist completes the requirements in subparagraph (A) of this paragraph, or April 28, 1999, whichever is later. The facility shall choose one of the dates in clause (i) of this subparagraph to determine the 36-month continuing education period and one of the dates in clause (ii) of this subparagraph to determine the 24-month continuing experience period. Each medical radiologic technologist shall maintain qualifications by meeting the following requirements:]

(i) Each MRT must maintain continuing education by completing at least 15 mammography CEUs, in a rolling 36-month period, by participating in or teaching mammography courses. CEUs earned through teaching a specific course can only be counted once

during the 36-month period. [participating in education programs by completing at least 15 CEUs in mammography or by teaching mammography courses. CEUs earned through teaching a specific course can be counted only once during the 36-month period. The continuing education must be completed in the 36 months immediately preceding:]

(I) The period for the initial continuing education begins when an MRT completes the requirements in subparagraph (A) of this paragraph, or April 28, 1999, whichever is later. [the date of the registrant's annual inspection;]

(II) The facility chooses one of the dates in subclause (III) of this clause to determine the start of the subsequent 36-month continuing education period. [the last day of the calendar quarter preceding the inspection; or]

(III) Continuing education must be completed in the 36 months immediately preceding: [any date in between the two;]

(-a-) the date of the facility's inspection;

(-b-) the last day of the calendar quarter preceding the inspection; or

(-c-) any date in between the two.

(ii) Each MRT must complete at least eight hours of CEUs in any mammography modality in which the MRT has not been previously trained, before independently using the new modality. [performing a minimum of 200 mammographic examinations that must be completed during the 24 months immediately preceding:]

{(I)} the facility's annual inspection;]

{(II)} the last day of the calendar quarter preceding the inspection; or]

{(III)} any date in between the two; and]

{(iii)} accumulating at least eight hours of CEUs in any mammography modality in which the medical radiologic technologist has not been previously trained, prior to independently using the new modality.}]

(E) Continuing experience.

(i) Each MRT must maintain continuing experience by completing 200 mammographic examinations.

(ii) The period for the initial continuing experience begins when an MRT completes the requirements in subparagraph (A) of this paragraph.

(iii) The facility chooses one of the dates in clause (iv) of this subparagraph to determine the start of the subsequent 24-month continuing experience period.

(iv) Continuing experience must be completed in the 24 months immediately preceding:

(I) the date of the facility's inspection;

(II) the last day of the calendar quarter preceding the inspection; or

(III) any date in between the two.

(F) [(D)] Requalification. Before resuming independent performance of mammograms, MRTs [medical radiologic technologists] who fail to maintain the continuing education or experience requirements must [shall] re-establish their qualifications by completing one or both of the following requirements, as applicable:

(i) obtain [obtaining a sufficient number of] additional CEUs to bring the [their] total up to [the] 15 CEU credits required

in the previous 36 months; [; at least six of which shall be related to each modality used by the technologist in mammography; and/or]

(ii) perform [~~performing~~] a minimum of 25 mammographic examinations under the direct supervision of a qualified MRT [~~medical radiologic technologist~~].

(G) [~~E~~] Additional mandatory training. Additional mandatory training may be required by the department [~~agency~~] based on the recommendations of an AB, the department, [~~the American College of Radiology~~] or the FDA. Training is [~~Such training will be~~] developed on a case-by-case [~~ease by ease~~] basis.

(i) The department [~~agency~~] may require pre-approval of any additional mandatory training.

(ii) Documentation of the additional mandatory training must [~~shall~~] be submitted for review by the date specified by the department [~~agency~~].

(iii) Records of all additional mandatory training must [~~shall~~] be maintained by the facility [~~registrant~~] for inspection by the department as specified in [~~agency in accordance with~~] subsection (x)(3) [~~(ee)(3)~~] of this section.

(3) Medical physicist. Each medical physicist performing mammographic surveys, evaluating mammographic equipment, or providing oversight of the facility QA [~~quality assurance~~] program as specified in [~~accordance with~~] subsection (k) [~~(tt)~~] of this section must [~~shall~~] hold a current Texas license under the Medical Physics Practice Act, Texas Occupations Code[;] Chapter 602, in diagnostic radiological physics. The medical physicist must [~~and~~] be registered with the department [~~agency~~] or employed by an entity registered with the department [~~agency~~], as specified in [~~accordance with~~] §289.226(j) of this subchapter [~~title~~] and the Act, unless exempted by §289.226(d)(7) [~~(6)~~] of this subchapter [~~title~~]. Each medical physicist must [~~shall~~] meet the following qualifications.

(A) Initial qualifications. Before performing surveys and evaluating mammographic equipment independently, the medical physicist must have [~~shall~~]:

(i) [~~have~~] a master's [~~masters~~] degree or higher in a physical science from an accredited institution, with no less than 20 semester hours, 30 quarter hours, or equivalent [~~(30 quarter hours)~~] of college undergraduate or graduate level physics;

(ii) [~~have~~] 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

(iii) [~~have~~] experience conducting surveys of at least one mammography facility and a total of at least 10 [~~ten~~] mammography machines. Experience [~~After April 28, 1999, experience~~] conducting surveys must be acquired under the direct supervision of a medical physicist who meets the requirements of subparagraphs (A), [~~and~~] (C), and (D) of this paragraph. No more than one survey of a specific machine within a period of 60 days can be counted towards the total mammography machine survey requirement.

(B) Alternative initial qualifications. Individuals who qualified as a medical physicist as specified in [~~accordance with~~] the requirements of this section that were in effect before [~~prior to~~] April 28, 1999, or any other equivalent state or federal requirements in effect before [~~prior to~~] April 28, 1999, and have met the following additional qualifications before [~~prior to~~] April 28, 1999, are determined to have met the initial qualifications of subparagraph (A) of this paragraph:

(i) a bachelor's degree or higher in a physical science from an accredited institution with no less than 10 [~~ten~~] semester hours or equivalent of college undergraduate or graduate level physics;

(ii) 40 contact hours of documented specialized training in conducting surveys of mammography facilities; and

(iii) experience conducting surveys of at least one mammography facility and a total of at least 20 mammography machines. No more than one survey of a specific machine within a period of 60 days can be counted towards the total mammography machine survey requirement. The training and experience requirements must be met after fulfilling the degree requirements.

(C) Continuing education. [~~and experience. The time period for completing continuing education is a 36-month period and the time period for completing continuing experience is a 24-month period. The period for continuing education will begin when a physicist completes the requirements in subparagraph (A) of this paragraph. The time period for continuing experience will begin when a physicist completes the requirements in subparagraph (A) of this paragraph, or April 28, 1999, whichever is later. The facility shall choose one of the dates in clause (i) of this subparagraph to determine the 36-month continuing education period and one of the dates in clause (ii) of this subparagraph to determine the 24-month continuing experience period. Each medical physicist shall maintain his/her qualifications by meeting the following requirements:]~~

(i) Each medical physicist must maintain continuing education by completing at least 15 mammography CEUs, in a rolling 36-month period, by participating in or teaching mammography courses. CEUs earned through teaching a specific course can only be counted once during the 36-month period. [participating in education programs, either by teaching or completing at least 15 CEUs in mammography that shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys. CEUs earned through teaching a specific course can be counted only once during the 36-month period. The continuing education must be completed in the 36 months immediately preceding:]

(I) The period for the initial continuing education begins when a medical physicist completes the requirements in subparagraph (A) of this paragraph, or April 28, 1999, whichever is later. [the date of the registrant's annual inspection;]

(II) The facility chooses one of the dates in subclause (III) of this clause to determine the start of the subsequent 36-month continuing education period. [by the last day of the calendar quarter preceding the inspection; or]

(III) Continuing education must be completed in the 36 months immediately preceding: [any date in between the two;]

(-a-) the date of the facility's inspection;

(-b-) the last day of the calendar quarter preceding the inspection; or

(-c-) any date in between the two.

(ii) Each medical physicist must also complete at least eight hours of training in any mammography modality in which the medical physicist has not been previously trained, before independently using the new modality. [performing surveys of two mammography facilities and a total of at least six mammography machines (no more than one survey of a specific facility within a ten-month period or a specific machine within a period of 60 days can be counted towards the total mammography machine survey requirement). The continuing experience must be completed during the 24 months immediately preceding:]

(I) the date of the facility's annual inspection;]

(II) by the last day of the calendar quarter preceding the inspection; or]

~~(III) any date in between the two; and]~~

~~{(iii) accumulating at least eight hours of CEUs in any mammography modality in which the medical physicist has not been previously trained, prior to independently using the new modality.}~~

(D) Continuing experience.

(i) Each medical physicist must perform a survey of two mammography facilities and at least six mammography machines. No more than one survey of a specific facility within a 10-month period or a specific machine within 60 days can be counted toward the total mammography machine survey requirement.

(ii) The period for the initial continuing experience begins when a medical physicist completes the requirements in subparagraph (A) of this paragraph.

(iii) The facility chooses one of the dates in clause (iv) of this subparagraph to determine the start of the subsequent 24-month continuing experience period.

(iv) Continuing experience must be completed in the 24 months immediately preceding:

(I) the date of the facility's inspection;

(II) the last day of the calendar quarter preceding the inspection; or

(III) any date in between the two.

(E) ~~(D)~~ Re-establishing qualifications. Before resuming independent performance of surveys and equipment evaluations, medical physicists who fail to maintain the continuing education or experience requirements must [shall] reestablish their qualifications by completing one or both of the following requirements, as applicable:

(i) obtain [obtaining a sufficient number of] additional CEUs to bring the [their] total up to the 15 CEU credits required in the previous 36 months; [and/or]

(ii) perform [performing a sufficient number of] surveys, under the direct supervision of a qualified medical physicist, to bring their total up to two mammography facilities and a total of at least six mammography machines for the prior 24 months. No more than one survey of a specific machine within a period of 60 days may [shall] be counted towards the total mammography machine survey requirement.

(4) Retention of personnel records. [Records documenting the qualifications, continuing education, and experience of personnel in subsection (F)(1) - (3) shall be maintained for inspection by the agency in accordance with subsection (ee) of this section.]

(A) Facilities must maintain records of training and experience relevant to their qualifications, as specified in subsection (h)(1) - (3) of this section, for personnel who work or have worked at the facility as IPs, MRTs, or medical physicists for review by the department.

(B) Records of personnel no longer employed by the facility must be maintained for at least 24 months from the date of the departure of the employee, and these records must be available for review at the time of an annual inspection occurring during those 24 months. Personnel records must be maintained by the facility for inspection by the department as specified in subsection (x) of this section.

(i) The facility must provide copies of these personnel records to current IPs, MRTs, and medical physicists upon their request.

(ii) The facility must provide personnel records to a former employee if the former employee communicates their request within 24 months of the date of their departure.

(I) If it has been greater than 24 months and the facility has maintained those records, the facility must provide those records to former employees upon request.

(II) If a facility closes or stops providing mammography services, it must arrange for current and former personnel to access their personnel qualification records before closing. Access may be provided by a permanent transfer of records to the personnel or the transfer of the records to a facility or other entity that will provide access to these records for at least 24 months from the date of facility closure of mammography services.

(i) ~~(s)~~ Machine Requirements. Mammographic machines must meet the following requirements [Equipment standards. Only systems meeting the following standards shall be used].

(1) System design. The equipment must be [shall have been] specifically designed and manufactured for mammography and as required by [in accordance with Title] 21[.] CFR[.] §§1010.2, 1020.30, and 1020.31.

(2) A mammography machine converted from one mammographic modality to another is considered a new machine at the facility under this subsection.

(A) Before clinical use, the mammography machine must undergo a mammography equipment evaluation and demonstrate compliance with applicable requirements.

(B) The facility must also follow the accreditation body's procedures for applying for accreditation of the unit.

(3) Screen-film mammography systems must meet the requirements of 21 CFR Part 900.

(4) ~~(2)~~ Motion of tube-image receptor assembly. The x-ray tube must remain physically stable during exposures. In cases where tubes are designed to move during exposure, the facility must ensure proper and free movement of the unit [The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion]. In the event of power interruption, this mechanism must [shall] not fail.

~~(3)~~ Image receptors. Systems using screen-film image receptors shall, at a minimum, provide for the following:}]

~~(A) operation with image receptors of 18 x 24 cm and 24 x 30 cm;}~~

~~(B) operable moving grids matched to all image receptor sizes provided;}~~

~~(C) operation with the grid removed from between the source and image receptor for systems used for magnification procedures; and}~~

~~(D) image receptors to rest, post-loading, 15 minutes between exposures.}~~

(5) ~~(4)~~ Magnification. Systems used to perform diagnostic [noninterventional problem solving] procedures must [shall] have radiographic magnification capability available for use with[.] at a minimum[.] at least one magnification value within the range of 1.4 to 2.0.

(6) ~~(5)~~ Focal spot and target material selection. Selection of the focal spot or target material must [shall] be as follows.

(A) When more than one focal spot is provided, the system must [shall] indicate, before [prior to] exposure, which focal spot is selected.

(B) When more than one target material is provided, the system must [shall] indicate, before [prior to] exposure, the preselected target material.

(C) When the target material and [and/or] focal spot are [is] selected by a system algorithm [that is] based on the exposure [or on a test exposure], after the exposure, the system must [shall] display[, after the exposure,] the target material and [and/or] focal spot [actually] used during the exposure.

(7) [(6)] Compression. All mammography systems must [shall] incorporate a compression device.

(A) Application of compression. Each [Effective October 28, 2002, and thereafter, each] system must [shall] provide the following features operable from both sides of the patient:

(i) an initial power-driven compression activated by hands-free controls; and

(ii) fine adjustment compression controls.

(B) Compression paddle.

(i) Systems must [shall] be equipped with different sized compression paddles matching [that match] the sizes of all full-field image receptors provided for the system.

(ii) Compression paddles for special purposes, including those smaller than the full size of the image receptor (for example, spot compression) may be provided. Such paddles are not subject to the requirements of clauses (v) and (vi) of this subparagraph.

(iii) Except as provided in clause (iv) of this subparagraph, the compression paddle must [shall] be flat and parallel to the breast support table and must [shall] not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.

(iv) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression must [shall] meet the manufacturer's design specifications and maintenance requirements.

(v) The chest wall edge of the compression paddle must [shall] be straight and parallel to the edge of the image receptor.

(vi) The chest wall edge may be bent upward to allow for patient comfort, but must [shall] not appear on the image.

(8) [(7)] Technique factor selection and display. Technique factor selection and display must [shall] be as follows.

(A) Manual selection of milliamperes seconds (mAs) or at least one of its component parts, milliamperes (mA) or [and/or] time, must [shall] be available.

(B) The technique factors (kVp [peak tube potential in kilovolts (kV)] and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs) [to be] used during an exposure must [shall] be indicated before the exposure begins, except when AEC [automatic exposure control (AEC)] is used, in which case the technique factors that are set before [prior to] the exposure must [shall] be indicated.

(C) When the AEC mode is used, the system must [shall] indicate the actual kVp and mAs used during the exposure. The mAs may be displayed as mA and time.

(9) [(8)] Automatic exposure control. Each [screen-film] system must [shall] provide an AEC mode [that is] operable in all combinations of equipment configuration provided, for example, [contact, magnification, and] various image receptor sizes.

(A) The positioning or selection of the detector must [shall] permit flexibility in the placement of the detector under the target tissue.

(i) The size and available positions of the detector must [shall] be clearly indicated at the x-ray input surface of the breast compression paddle.

(ii) The selected position of the detector must [shall] be clearly indicated.

(B) The system must [shall] provide means to vary the selected optical density from the normal, or zero, [(zero)] setting. [(9) X-ray film: The registrant shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.]

[(10) Intensifying screens: The registrant shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.]

[(11) Film processing solutions: For processing mammography films, the registrant shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.]

[(12) Lighting: The registrant shall make available special lights for film illumination (hot lights) capable of producing light levels greater than that provided by the view box.]

[(13) Film masking devices: Registrants shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.]

(10) [(14)] Equipment variances. Facilities [Registrants] with mammography equipment with [that has been issued] variances issued by the FDA as specified in [to Title] 21[.] CFR[.] §§1020.2, 1020.30, 1020.31, or have [has had] an alternative to [for] a quality standard for equipment approved by the FDA as required by [under the provisions of Title] 21[.] CFR[.] §900.18, must [shall] maintain copies of those variances or alternative standards.

(11) Each mammography machine must meet the following technical specifications.

(A) Kilovoltage peak accuracy and reproducibility. At the most used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp must be equal to or less than 0.02. The kVp must be accurate to within plus or minus 5.0 percent of the indicated or selected kVp at the following:

(i) the lowest clinical kVp that can be measured by a kVp test device;

(ii) the most used clinical kVp; and

(iii) the highest available clinical kVp.

(B) Beam quality and half-value layer (HVL). The HVL must meet the specifications of 21 CFR §1020.30(m)(1) for the minimum HVL. These values, extrapolated to the mammographic range, are shown as follows. This test is performed using the clinical kVp on the standard breast. Values not shown in Table I may be determined by linear interpolation or extrapolation.

Figure: 25 TAC §289.230(i)(11)(B)

(C) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs must not exceed 0.05.

(D) Dosimetry. The average glandular dose delivered during a single view or DBT exposure of an FDA-accepted phantom simulating a standard breast must not exceed 3.0 milligray (mGy) (0.3 rad) per exposure.

(E) X-ray field, light field, image receptor, and compression paddle alignment. All systems must meet the following.

(i) Beam-limiting devices that allow the entire chest wall edge of the x-ray field to extend to the chest wall edge of the image receptor must provide means to ensure the x-ray field does not extend beyond any edge of the image receptor by more than 2.0 percent of the SID.

(ii) The light field passing through the x-ray beam limitation device must be aligned with the x-ray field so the total of any misalignment of the edges, along the length or the width of the visually defined field at the plane of the breast support surface, does not exceed 2.0 percent of the SID.

(iii) When tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness, the chest wall edge of the compression paddle does not extend beyond the edge of the image receptor by greater than 1.0 percent of the SID. The shadow of the vertical edge of the compression paddle must not be visible in the image.

(12) [(15)] Light fields. For any mammography system with a light beam that passes through the x-ray beam-limiting device, the light must [shall] provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum SID [source-image receptor distance (SID)], whichever is less.

(j) [(t)] Medical records and mammography reports.

(1) Contents and terminology. Each facility must [registrant shall] prepare a written report of the results of each mammographic examination performed. [mammography examination that shall include the following information:]

(2) The mammographic examination presented for interpretation must be in the original mammographic modality in which it was performed and must not consist of digital images produced through copying or digitizing hardcopy original images.

(3) The mammography report must include the:

(A) patient name [of the patient] and an additional patient identifier [date of birth];

(B) [date of the] examination date;

(C) facility name and location, including the city, state, zip code, and telephone number of the facility;

(D) [(C)] name and signature of the IP [interpreting physician] who interpreted the mammogram (electronic signatures are acceptable);

(E) [(D)] overall final assessment of findings using the final assessment categories as defined in clauses (i) - (vii) [subsection (e)] of this subparagraph, [section;] and classified in one of the following categories with the assessment statement, including only the word or phrase within the quotation marks:

(i) "Negative" indicates nothing to comment upon (if the IP is aware of clinical findings of symptoms, despite the negative assessment, these must be documented and addressed);

(ii) "Benign" indicates a normal result, with benign findings present, but no evidence of malignancy (if the IP is aware of clinical findings or symptoms, despite the benign assessment, these must be documented and addressed);

(iii) "Probably Benign" indicates a finding that has a high probability of being benign;

(iv) "Suspicious" indicates a finding without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

(v) "Highly suggestive of malignancy" indicates a finding that has a high probability of being malignant;

(vi) "Known biopsy proven malignancy" is reserved for known malignancies being mammographically evaluated for definitive therapy; or

(vii) "Post procedure mammogram for marker placement" indicates a mammogram to confirm the deployment and position of a breast tissue marker; or

(F) in cases where the final assessment category cannot be assigned due to incomplete work-up, the IP must assign one of the following classification statements and reasons why the final assessment cannot be made:

(i) "Incomplete: Need additional imaging evaluation" is reserved for examinations where additional imaging needs to be performed before an assessment category identified in subparagraph (E)(i) - (vii) of this paragraph can be given; or

(ii) "Incomplete: Need prior mammograms for comparison" is reserved for examinations where comparison with prior mammograms should be performed before an assessment category identified in subparagraph (E) of this paragraph can be given; if this assessment category is used, a follow-up report with an assessment category identified in subparagraph (E)(i) - (v) of this paragraph must be issued within 30 calendar days of the initial report whether or not comparison views can be obtained;

(G) overall assessment of breast density, classified in one of the following categories:

(i) "The breasts are almost entirely fatty";

(ii) "There are scattered areas of fibroglandular density";

(iii) "The breasts are heterogeneously dense, which may obscure small masses"; or

(iv) "The breasts are extremely dense, which lowers the sensitivity of mammography"; and

(H) [(E)] recommendations made to the healthcare provider [physician] about what additional actions, if any, should be taken. All clinical questions raised by the referring healthcare provider must [physician shall] be addressed in the report to the extent possible, even if the assessment is negative or benign.

(4) [(2)] Communication of mammography results to the patient and healthcare [health care] providers [or physicians], as applicable. [Each registrant shall send reports as soon as possible, but no later than 30 days from the date of the mammography examination, to:]

(A) Each facility must send a mammography report to referring healthcare providers, or patients who do not name a health-

care provider to receive the mammography report, the report described in subsection (j)(3) of this section within 30 days of the mammography examination. If the assessment of the mammography report is "Suspicious" or "Highly suggestive of malignancy," the facility must send this report within seven calendar days of the mammography examination. [patients advising them of the results of the mammography examination and any further medical needs indicated. The report shall include a summary written in language easily understood by a lay person; and]

(B) Each facility must send a mammography report summary, written in plain language, to patients advising them of the results of the mammography examination and any further medical needs within 30 days of the mammography examination. If the assessment of the mammography report is "Suspicious" or "Highly suggestive of malignancy," the facility must send this report summary within seven calendar days of the final interpretation of the mammogram [referring physicians, or in the case of self-referral, to the physician indicated by the patient, advising them of the results of the mammography examination, containing the information specified in paragraph (4) of this subsection, and any further medical needs indicated].

(5) A summary of the report written in plain language must be provided within 30 days of interpretation and include:

(A) patient name;

(B) name, address, and telephone number of the facility performing the mammographic examination; and

(C) assessment of breast density as described in subsection (j)(3)(G) of this section, as applicable.

(i) If the mammography report identifies the patient's breast density as "The breasts are almost entirely fatty" or "There are scattered areas of fibroglandular density," the summary must include the statement, "Breast tissue can be either dense or not dense. Dense tissue makes it harder to find breast cancer on a mammogram and also raises the risk of developing breast cancer. Your breast tissue is not dense. Talk to your healthcare provider about breast density, risks for breast cancer, and your individual situation."

(ii) If the mammography report identifies the breast density as "The breasts are heterogeneously dense, which may obscure small masses" or "The breasts are extremely dense, which lowers the sensitivity of mammography," the summary must include the statement, "Breast tissue can be either dense or not dense. Dense tissue makes it harder to find breast cancer on a mammogram and also raises the risk of developing breast cancer. Your breast tissue is dense. In some people with dense tissue, other imaging tests in addition to a mammogram may help find cancers. Talk to your healthcare provider about breast density, risks for breast cancer, and your individual situation."

(6) [(3)] Follow-up with patients and healthcare provider [physicians]. Each facility must [registrant shall] follow-up to confirm if [the following]:

(A) [that] patients with positive findings and patients needing repeat examinations [exams] have received proper notification; and

(B) healthcare providers [that physicians] have received proper notification of patients with positive findings or needing repeat examinations [exams].

(7) [(4)] Retention of clinical images for a current, closed, or terminated facility [registrants].

(A) A facility must implement policies and procedures to minimize the possibility of loss of these records. The original mam-

mograms must be retained, in retrievable form in the mammographic modality in which they were produced, for a minimum of five years. Original mammograms cannot be produced by copying or digitizing hardcopy originals [Each registrant that performs mammograms shall maintain mammography films and reports in a permanent medical record for a minimum of five years]. If [no] additional mammograms of the patient are not performed at the facility, the images [films] and reports must [shall] be maintained for a minimum of 10 [ten] years as specified in subsection (x) of this section.

(B) Each facility performing [registrant that performs] mammograms must [shall], within 15 calendar [30] days of request by or on behalf of the patient, permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, a physician, or to the patient directly.

(i) Transferred mammograms must be in the mammographic modality in which they were produced and cannot be produced by copying or digitizing hardcopy originals.

(ii) For digital mammograms or DBT, if the examination is being transferred for final interpretation purposes, the facility must be able to provide the recipient with original digital images electronically.

(C) If the medical records are permanently forwarded, the receiving institution or physician must [shall] maintain and become responsible for the original images [film] until the fifth or tenth anniversary, as specified in subparagraph (A) of this paragraph.

(D) Any fee charged to a patient for providing the services in subparagraphs (B) - (C) of this paragraph must not exceed the documented costs associated with this service.

(E) [(D)] Closure [Upon closure] or termination.[;]

(i) The facility must [the registrant shall] maintain the mammography images [films] for five [5] years. [If the facility complies with the following:]

(ii) [(i)] Within [within] 180 days of closing, the facility must [registrant shall directly] notify each patient or patient's representative with instructions on how to access [retrieve] or authorize disposal of the patient's records.[; and]

(I) Access may be provided by the permanent transfer of mammographic records to the patient, the patient's healthcare provider, or a facility or other entity that will provide access to patients and healthcare providers. Access to the records must be provided by the facility or other entity for the remainder of the time periods specified in subparagraph (A) of this paragraph.

(II) If a facility ceases to perform mammography but continues to operate as a medical entity and is able to satisfy the record keeping requirements of subparagraph (A) of this paragraph, it may choose to continue to retain the medical records rather than transfer them to another facility, unless a transfer is requested by, or on behalf of, the patient. The facility must notify the AB and department in writing of the arrangements it has made and must make reasonable efforts to notify all affected patients.

(iii) [(ii)] Within [within] 60 days of closing, the facility must [registrant shall] publish a notice in at least one newspaper, or publicly available media, [or more newspapers] covering the geographical area served by the closing facility. The notice must [shall] include:

(I) contact information for [on] retrieving patient records; and

(II) information that the records will be destroyed if not retrieved by the patient or the patient's representative within five [5] years.[: and]

(iv) [(iii)] If [if] records have not been retrieved by the patient or the patient's representative during [following] the five-year [5-year] period after closing, the registrant may destroy the records.

(8) [(5)] Mammographic image identification. Each mammographic image must include [shall have] the following information indicated on it in a permanent, legible manner and placed so it does [as] not [to] obscure anatomic structures:

(A) patient name [name of patient] and date of birth;

(B) date of examination;

(C) view and laterality, [(this information shall be placed on the image in a position near the axilla)];

(D) facility name and location, including [(at a minimum the location shall include] city, state, and zip code)];

(E) MRT [technologist] identification;

(F) cassette [cassette/screen] identification, if applicable; [and]

(G) mammography machine identification, if there is more than one machine in the facility;[-]

(H) compressed breast thickness or degree of compression; and

(I) kVp.

[(6) Information shall also be maintained for each clinical image by utilizing a label on each film, recording on the film jacket, or maintaining a log or other means. The information shall include, but is not limited to, compressed breast thickness or degree of compression, and kVp.]

(k) [(t)] Quality assurance - general. Each facility must [registrant shall] establish and maintain a written quality assurance program to ensure the safety, reliability, clarity, and accuracy of mammography services performed at the mammography facility, including corrective actions [to be] taken if images are of poor quality.

(1) Responsible individuals. Responsibility for the QA [quality assurance] program and [for] each of its elements must [shall] be assigned to individuals who are qualified for their assignments and [who shall be] allowed adequate time to perform these duties.

(A) Lead interpreting physician. The facility must [registrant shall] identify a LIP [lead interpreting physician] who is responsible for [shall have the general responsibility of]:

(i) ensuring [that] the QA [quality assurance] program meets all requirements of this subsection and subsections (l) and (m) [(v) and (w)] of this section;

(ii) reviewing and documenting, with date and signature, the MRTs' QC [technologists' quality control] test results at least every three months or more frequently if consistency has not yet been achieved;

(iii) reviewing and documenting, with date and signature, the physicians' results within 60 days of the receipt of the results or more frequently when needed; and

(iv) assigning the individual and evaluating their [determining the individual's] qualifications to perform the QA [quality assurance] tasks in subparagraphs (B) - (D) of this paragraph.

(B) Interpreting physicians. All [interpreting] physicians interpreting mammograms for a facility must [the registrant shall]:

(i) follow the facility's [registrant's] procedures for corrective action when the images they are asked to interpret are of poor quality; these [- These] procedures must [shall] be included in the facility's operating and safety procedures (OSP); and

(ii) participate in the medical outcomes audit program.

(C) Medical physicist. Each facility must [registrant shall] use the services of a licensed medical physicist to survey mammography equipment and oversee the equipment-related QA [quality assurance] practices of the facility. At a minimum, the medical physicist is [shall be] responsible for performing the surveys, performing [and the] mammography equipment evaluations, and providing the facility with the reports described in subsection (l)(5) and (6) [(v)(10) and (11)] of this section.

(D) Quality control technologist. The QC [quality control] technologist, designated by the LIP [lead interpreting physician], must [shall] ensure performance of the items designated in subsection (l)(1) - (4), (7), and (9) [(v)(1) - (4), (7) - (9), (12), and (14)] of this section. If other personnel are assigned the QA [quality assurance] tasks in accordance with subparagraph (A)(iv) of this paragraph, the QC [quality control] technologist must ensure [shall insure that] the requirements of subsection (l)(1) - (4), (7), and (9) [(v)(1) - (4), (7) - (9), (12), and (14)] of this section are met.

(2) Quality assurance records.

(A) The LIP [lead interpreting physician], QC [quality control] technologist, and medical physicist must [shall] ensure [that] records concerning mammography technique and procedures, QC [quality control] (include monitoring data, corrective actions, and the effectiveness of the corrective actions), safety, protection, and employee qualifications related to [meet] assigned QA [quality assurance] tasks are properly maintained and updated.

(B) The QC [These quality control] records must [shall] be kept for each test specified in subsections (l) and (m) [(v) and (w)] of this section, as specified in [accordance with] subsection (x) [(ee)] of this section.

(l) [(v)] Quality assurance - equipment. [Registrants with screen-film systems shall perform the following quality control tests at the intervals specified. In addition to the intervals specified in paragraphs (4)(B) and (5)(H) of this subsection, the tests shall be performed prior to initial use:]

(1) Facilities with screen-film systems must perform QC tests as specified in 21 CFR Part 900 [Daily quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be completed and the results charted on each day that clinical films are processed before any clinical films are processed that day].

[(A) Processor performance test. Using mammography film used clinically at the facility, sensitometer tests shall include assessment of the following:]

[(i) base plus fog density that shall be within plus 0.03 of the established operating level;]

[(ii) mid-density that shall be within plus or minus 0.15 of the established operating level; and]

{(iii) density difference that shall be within plus or minus 0.15 of the established operating level.}

{(B) Film processors being used for mammography at multiple locations, such as a mobile service operation, shall be subject to the requirements of this paragraph.}

{(C) Film processors utilized for mammography shall be adjusted to and operated at the specifications recommended by the mammographic film manufacturer, or at other settings such that the sensitometric performance is at least equivalent.}

{(D) Each registrant shall utilize the same film processor for clinical and phantom images. Clinical images shall be processed within an interval not to exceed 24 hours from the time the first clinical image is taken. Facilities utilizing batch processing shall do the following:}

{(i) use a container to transport clinical images that will protect the film from exposure to light and radiation; and}

{(ii) maintain a log to include each patient name and unique identification number, date, and time of the first exam of each batch, and date and time of batch development.}

(2) Systems with image receptor modalities, other than screen-film, must follow a QA program that is substantially the same as the one recommended by the image receptor manufacturer [Weekly quality control tests. These tests shall be performed at an interval no greater than seven days. If mammography is not being performed on the date the test is due and more than seven days have past since the last test, the tests shall be performed prior to resuming mammography. An image quality evaluation test, using an FDA-accepted phantom, shall meet the following parameters].

{(A) The optical density of the film at the center of an image of a standard FDA-accepted phantom shall be at least 1.20 when exposed under a typical clinical condition and shall not change by more than plus or minus 0.20 from the established operating level.}

{(B) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.}

{(C) The phantom image shall be made on the standard mammographic film in use at the facility with techniques used for clinical images of a standard breast. The phantom image shall meet the requirements in subparagraphs (A) and (B) of this paragraph and clause (i) of this subparagraph. No mammograms shall be taken on patients if any of these minimums are not met.}

{(i) The mammographic machine shall be capable of producing images of the mammographic phantom in accordance with the phantom image scoring protocol in subsection (hh)(4) of this section or paragraph (7) of this subsection.}

{(ii) Each phantom image and a record of the evaluation of that image shall be maintained at the location where the mammography image was produced or with the radiographic equipment for mobile service operations.}

{(3) Quarterly quality control tests. These tests shall be performed within the calendar quarter at an interval not to exceed 90 days.}

{(A) Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square cm.}

{(B) Repeat analysis. A repeat analysis on clinical images repeated or rejected shall be performed, analyzed, and doc-

umented. The total repeat or reject rate shall not exceed 5.0%. If the total repeat or reject rate changes from the previously determined rate by more than 2.0% of the total films included in the analysis, the reason(s) for the change shall be determined. Corrective action shall be taken and documented if the total repeat or reject rate for the facility exceeds 5.0% or changes from the previously determined rate by more than 2.0% of the total films included in the analysis. Test films, cleared films, or film processed as a result of exposure of a film bin are not to be included in the count for repeat analysis. Films included in the repeat analysis are not required to be kept after completion of the analysis.}

{(4) Semiannual quality control tests. These tests shall be performed at an interval not to exceed six months.}

{(A) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.2 OD, is exposed to typical darkroom conditions for two minutes while such film is placed on the counter top, emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.}

{(B) Screen-film contact. Testing for screen-film contact shall be conducted using 40 mesh copper screen. The entire area of the cassette that may be clinically exposed shall be tested. This shall include all cassettes used for mammography in the facility.}

{(C) Compression device performance. The maximum compression force for the initial power drive shall be between 25 pounds and 45 pounds. The system shall be capable of compressing the breast with a force of at least 25 pounds and shall be capable of maintaining this compression for at least 15 seconds.}

{(5) Annual quality control tests. These tests shall be performed at an interval not to exceed (14) months.}

{(A) Automatic exposure control performance. The AEC shall be capable of maintaining film optical density within plus or minus 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range and in the AEC mode used clinically in the facility.}

{(B) Kilovoltage peak accuracy and reproducibility. At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02. The kVp shall be accurate to within plus or minus 5.0% of the indicated or selected kVp at the following:}

{(i) the lowest clinical kVp that can be measured by a kVp test device;}

{(ii) the most commonly used clinical kVp; and}

{(iii) the highest available clinical kVp.}

{(C) Focal spot condition. Facilities shall evaluate focal spot condition by determining the system resolution as follows.}

{(i) Each system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeter (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.}

{(ii) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.}

~~[(iii) When more than one target material is provided, the measurement in clause (i) of this subparagraph shall be made using the appropriate focal spot for each target material.]~~

~~[(iv) When more than one SID is provided, the test shall be performed at the SID most commonly used clinically.]~~

~~[(v) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette combination used by the facility shall be used to test for this requirement and shall be placed in the normal location used for clinical procedures.]~~

~~[(D) Beam quality and half-value layer (HVL). The HVL shall meet the specifications of Title 21, CFR, §1020.30(m)(1) for the minimum HVL. These values, extrapolated to the mammographic range, are shown as follows. This test is performed using the clinical kVp on the standard breast. Values not shown in Table I may be determined by linear interpolation or extrapolation.]~~
~~[Figure: 25 TAC §289.230(v)(5)(D)]~~

~~[(E) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.]~~

~~[(F) Dosimetry. The average glandular dose delivered during a single craniocaudal view of an FDA accepted phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure.]~~

~~[(G) X-ray field/light field/image receptor/compression paddle alignment. All systems shall meet the following:]~~

~~[(i) All systems shall have beam-limiting devices that allow the entire chest wall edge of the x-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the x-ray field does not extend beyond any edge of the image receptor by more than 2.0% of the SID.]~~

~~[(ii) If a light field that passes through the x-ray beam limitation device is provided, it shall be aligned with the x-ray field so that the total of any misalignment of the edges of the light field and the x-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2.0% of the SID.]~~

~~[(iii) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than 1.0% of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.]~~

~~[(H) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.]~~

~~[(I) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.]~~

~~[(J) Radiation output. The system shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 milliroentgen (mR) per second) when operating at 28 kVp in the standard mammography mode at any SID where the system is designed to~~

~~operate. The system shall be capable of maintaining the required minimum radiation output averaged over a 3.0 second period.]~~

~~[(K) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides the following:]~~

~~[(i) an override capability to allow maintenance of compression;]~~

~~[(ii) a continuous display of the override status; and]~~

~~[(iii) a manual emergency compression release that can be activated in the event of power or automatic release failure.]~~

~~[(L) The technique settings used for subparagraph (F) of this paragraph and paragraph (2) of this subsection shall be those used by the facility for its clinical images of a standard breast.]~~

~~[(6) Densitometer and sensitometer. The calibration of the densitometer and sensitometer must be in accordance with the manufacturer's specifications.]~~

~~[(7) Quality control tests - other modalities. For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in paragraph (5)(F) of this subsection.]~~

~~(3) [(8) Mobile service operation.~~

~~(A) The mobile facility must [registrant shall] verify [that] mammography machines used to produce mammograms at more than one location meet the requirements in paragraphs (1) and (2) [(4) - (7)] of this subsection.~~

~~(B) At [In addition, at] each examination location, before any examinations are conducted, the facility must [registrant shall] verify satisfactory performance of the mammography machines by using a testing [test] method, as required by the manufacturer, establishing [that establishes] the adequacy of the image quality produced by the machine.~~

~~(C) Processor performance testing must be completed as required by 21 CFR Part 900 [shall be in accordance with paragraph (4) of this subsection].~~

~~(4) [(9) Use of test results. After completion of the tests specified in paragraphs (1) and (2) [(4) - (8)] of this subsection, the following must [shall] occur.~~

~~(A) The facility must [registrant shall] compare the test results to the [corresponding specified action limits; or, for nonscreen-film modalities, to the] manufacturer's recommended action limits[; or for post-move, pre-examination testing of mobile mammography machines, to the limits established in the test method used by the facility].~~

~~(B) If components [Components] of the mammography system [that] fail QA [quality assurance] tests, the facility must follow [shall have] corrective actions required by 21 CFR Part 900, or the QA program recommended by the image receptor manufacturer [as indicated in the following].~~

~~[(i) If components in subclause (I) and (II) of this clause fail, corrective action shall be taken before any mammography films are processed:]~~

~~[(i) paragraph (4) of this subsection describing processor quality control; and]~~

~~[(II)]~~ paragraph (4)(A) of this subsection describing darkroom fog;]

~~[(iii)]~~ If components in subclause (I) - (VI) of this clause fail, corrective action shall be taken before any mammography examinations are performed;]

~~[(I)]~~ paragraph (2) of this subsection describing phantom image quality;]

~~[(II)]~~ paragraph (4)(B) of this subsection describing screen-film contact;]

~~[(III)]~~ paragraph (4)(C) of this subsection describing compression device performance;]

~~[(IV)]~~ paragraph (5)(F) of this subsection describing dosimetry;]

~~[(V)]~~ paragraph (7) of this subsection describing quality control tests of other modalities; and]

~~[(VI)]~~ paragraph (8) of this subsection describing quality control tests for mobile mammography machines.;

~~[(iii)]~~ If components in the remaining quality assurance tests in subsection (v) of this section fail, corrective action shall be taken within 30 days of the test date.;

(C) Documentation of the tests and the corrective actions described in subparagraph (B) of this paragraph must [shall] be maintained as specified in [accordance with] subsection (x) [(ee)] of this section.

(5) [(40)] Surveys. Annually, not to exceed 14 months from the date of the previous survey [At least once a year], each mammography system must [facility shall] undergo a survey by a medical physicist, or [by] an individual under the direct supervision of a medical physicist, as specified in paragraphs (1) - (3) of this subsection.

[(A)] At a minimum, this survey shall include the following:]

~~[(i)]~~ performance of tests to ensure that the facility meets the quality assurance requirements of the weekly phantom image quality test described in paragraph (2) of this subsection, the annual tests described in paragraph (5) of this subsection, and if applicable, quality control tests as described for other modalities in paragraph (7) and for mobile service operations as described in paragraph (8) of this subsection; and]

~~[(ii)]~~ evaluation of the adequacy of the results of all tests conducted by the facility as well as written documentation of any corrective actions taken and their results in accordance with paragraphs (1) - (4) of this subsection, and, if applicable, paragraphs (7) and (8) of this subsection.;

(A) [(B)] The medical physicist must [shall] provide a written survey report to the facility within 30 days of the date of the survey. The report must [shall] include a summary of the test performed, all test conditions, specifications, results, and recommendations for corrective actions; in accordance with subparagraph (A)(i) and (ii) of this paragraph].

(B) [(C)] If any deficiencies require immediate corrective action as specified in paragraphs (1) - (3) of this subsection [the following tests indicate deficiencies], the physicist must [shall] give a preliminary [oral or] written report to the facility within 72 hours of the survey.;

~~[(i)]~~ processor quality control in accordance with paragraph (9)(B)(i)(I) of this subsection;]

~~[(ii)]~~ phantom images, screen-film contact, compression device performance, or dosimetry in accordance with paragraph (9)(B)(ii)(I) - (IV) of this subsection;]

~~[(iii)]~~ quality control tests for other modalities, if applicable, in accordance with paragraph (9)(B)(ii)(V) of this subsection; or]

~~[(iv)]~~ quality control tests for mobile mammography machines, if applicable, in accordance with paragraph (9)(B)(ii)(VI) of this subsection.;

(C) [(D)] The survey report must include the: [shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey.;

~~[(i)]~~ date, name, and signature of the medical physicist performing or supervising the survey;

~~[(ii)]~~ name and signature of each individual under the direct supervision of the medical physicist performing any part of the survey, as applicable;

~~[(iii)]~~ name of the facility;

~~[(iv)]~~ address of facility;

~~[(v)]~~ registration number of the facility;

~~[(vi)]~~ make, model, and serial number from the machine control panel;

~~[(vii)]~~ registration number of the service provider performing the survey;

~~[(viii)]~~ service provider email address;

~~[(ix)]~~ business mailing address of the service provider performing the survey; and]

~~[(x)]~~ date of the last calibration of testing equipment.

(D) [(E)] The facility must maintain the survey report as specified [shall be maintained by the registrant] in [accordance with] subsection (x) [(ee)] of this section.

(6) [(44)] Mammography equipment evaluations. Additional evaluations of mammography machines must follow manufacturer specifications. Screen-film mammography machines must follow applicable requirements in 21 CFR Part 900. The mammography equipment evaluation and dosimetry must be performed by a medical physicist or an individual under the direct supervision of a medical physicist [or image processors shall be conducted whenever a new mammography machine or processor is installed, a mammography machine or processor is disassembled and reassembled at the same or a new location, major components of mammography machine are changed or repaired, or a processor is overhauled or reconditioned. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in this subsection and subsection (s) of this section].

[(A)] All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing.;

~~[(B) The mammography equipment evaluation and dosimetry shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.]~~

(7) Each diagnostic review workstation (RWS) used to interpret images must follow manufacturer specifications for display conditions and quality control. If the RWS manufacturer does not specify QC procedures, then a QA program that is substantially the same as the QA program recommended by the image receptor manufacturer must be established and followed.

~~[(12) Facility cleanliness. The registrant shall establish and implement adequate protocols for maintaining darkroom, screen, and view box cleanliness and shall document that all cleaning procedures are performed at the frequencies specified in the protocols.]~~

(8) ~~[(13)]~~ Calibration of air kerma measuring instruments. Instruments used by medical physicists in their annual survey and mammography equipment evaluation to measure the air kerma or air kerma rate from a mammography machine must ~~[shall]~~ be calibrated at least once every two years and each time the instrument is repaired. The instrument calibration must be traceable to a national standard and calibrated with an accuracy of plus or minus six percent, or 95 percent confidence level, ~~[6.0% (95% confidence level)]~~ in the mammography energy range.

(9) ~~[(14)]~~ Infection control. Facilities must ~~[shall]~~ establish and comply with a system specifying procedures ~~[to be followed by the facility]~~ for cleaning and disinfecting mammography equipment after contact with blood or other potentially infectious materials. This system must ~~[shall]~~ specify the methods for documenting facility compliance with the infection control procedures established and must ~~[shall]~~:

(A) comply with all applicable federal, state, and local regulations pertaining to infection control; and

(B) comply with the manufacturer's recommended procedures for the cleaning and disinfection of the mammography equipment used in the facility; or

(C) if adequate manufacturer's recommendations are not available, comply with generally accepted guidance on infection control, until such recommendations become available.

(m) ~~[(w)]~~ Quality assurance - mammography medical outcomes audit. Each registrant must ~~[shall]~~ establish and maintain a mammography medical outcomes audit program to follow-up ~~[follow-up]~~ positive mammographic assessments and to correlate pathology results with the IP's ~~[interpreting physician's]~~ findings. The ~~[This]~~ program must ~~[shall]~~ be designed to ensure the reliability, clarity, and accuracy of the interpretation of mammograms.

(1) General requirements.

(A) Each facility must ~~[registrant shall]~~ establish a system to collect and review outcome data for all mammograms performed, including follow-up on the disposition of all positive mammograms and correlation of pathology results with the IP's ~~[interpreting physician's]~~ mammography report.

(B) For cases of breast cancer among patients imaged at the facility that become known to the facility, the facility must initiate a follow-up on surgical and pathology results and a review of the mammographic examinations taken before the diagnosis of a malignancy.

(C) The ~~[Analysis of these]~~ outcome data must ~~[shall]~~ be made individually and collectively for all IPs ~~[interpreting physicians]~~ at the facility and include determinations of the following. [In addition, any cases of breast cancer among women imaged at the facility that subsequently become known to the facility shall prompt the

facility to initiate follow-up on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.]

(i) Positive predictive value. The percent of patients with positive mammograms who are diagnosed with breast cancer within one year of the date of the mammographic examination.

(ii) Cancer detection rate. Of the patients initially examined with screening mammograms who receive an assessment of "Incomplete: Need additional imaging evaluation," "Suspicious," or "Highly Suggestive of Malignancy" on the screening mammogram or on a subsequent diagnostic mammogram, the number of patients who are diagnosed with breast cancer within one year of the date of the initial screening mammogram, expressed as a ratio per 1,000 patients.

(iii) Recall rate. The percentage of screening mammograms given an assessment of "Incomplete: Need additional imaging evaluation."

(2) Frequency of audit analysis. The facility's first audit analysis must begin within ~~[shall be initiated no later than]~~ 12 months of the facility becoming certified, and completed within the following 12 months ~~[after the date the facility becomes certified or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be complete within an additional 12 months]~~ to permit completion of diagnostic procedures and data collection.

(A) Subsequent audit analyses will be conducted at least once every 12 months.

(B) The facility must maintain the audit analysis as specified in ~~[These shall be maintained in accordance with]~~ subsection ~~(x)~~~~[(ee)]~~ of this section.

(3) Reviewing interpreting physician. Each LIP ~~[lead interpreting physician]~~ or an interpreting physician designated by the LIP must ~~[lead interpreting physician shall]~~ review the medical outcomes audit data at least annually, not to exceed ~~[once every]~~ 12 months following the data collection period. This individual must ~~[shall]~~ analyze the results of the audit and is ~~[shall be]~~ responsible for the following:

(A) recording the dates of the audit period ~~[period(s)]~~;

(B) documenting the results;

(C) notifying other IPs ~~[interpreting physicians]~~ of their results and the facility's collective ~~[registrant's aggregate]~~ results; ~~[and]~~

(D) documenting any follow up actions and the nature of the follow up; ~~[and]~~;

(E) recording the audit completion by providing a signature and date on the audit.

(n) ~~[(x)]~~ Mammographic procedure and techniques for mammography of patients with breast implants. Each registrant must ~~[shall]~~ have a procedure to inquire if ~~[whether or not]~~ the patient has breast implants before ~~[prior to]~~ the mammographic exam. Except where contraindicated, or unless modified by a physician's directions, patients with breast implants must ~~[shall]~~ have mammographic views to maximize the visualization of breast tissue.

(o) ~~[(y)]~~ Complaints. Each accredited facility must ~~[shall]~~ do the following:

(1) establish a written procedure for collecting and resolving consumer complaints;

(2) maintain a record of each serious complaint received by the facility as specified in [accordance with] subsection (x) [(ee)] of this section; [and]

(3) provide the consumer with adequate directions for filing serious complaints with the facility's AB if the facility is unable to resolve a serious complaint to the consumer's satisfaction; and

(4) [(3)] report unresolved serious complaints to the facility's AB [FDA-approved accreditation body] within 30 days of receiving the complaint.

(p) [(z)] Clinical image quality. Clinical images produced by any certified facility must continue to comply with the standards for clinical image quality established by the [that] facility's AB [accreditation body].

(q) [(aa)] Additional mammography review, targeted clinical reviews, and patient notification.

(1) If the department [agency certifying body] believes the [that] mammography quality at a facility is [may have been] compromised and presents a serious risk to human health, the facility must [shall] provide clinical images and other relevant information, as specified by the department [agency certifying body], for review by the AB [FDA-approved accreditation body]. The additional mammography review will assist the department with determining:

(A) the facility's compliance with this section; and

(B) if there is a need to notify affected patients, their healthcare provider, or the public that the reliability, clarity, and accuracy of the interpretation of mammograms has been compromised.

(2) If the department [agency certifying body] determines the [that] mammography quality at a facility has been compromised and presents a serious risk to human health, the facility must [shall] provide clinical images and other relevant information, as specified by the department [agency certifying body], for review by the AB [FDA-approved accreditation body]. The department [agency certifying body] may require such facility to notify patients who received mammograms[,] and their referring healthcare provider [physicians]. The notification must occur within a time frame and in a manner specified by the department. The notification must: [shall include the deficiencies presenting such risk, the potential consequences to the patient, appropriate remedial measures, and such other relevant information as the agency certifying body may require. Such notification shall occur within a time frame and in a manner specified by the agency.]

(A) inform the patient the mammography system failed to satisfy the department and AB's standards;

(B) recommend the patient consult with the patient's healthcare provider regarding the need for another mammogram;

(C) list three non-affiliated facilities closest to the original testing facility that have a certified mammography system; and

(D) include the deficiencies presenting such risk, the potential consequences to the patient, appropriate remedial measures, and other relevant information required by the department.

(3) If the facility is unable or unwilling to perform such notification, the department may notify patients and their referring physicians or other healthcare providers individually or through the mass media.

(4) [(3)] The department, the AB [agency certifying body, the agency accreditation body or another FDA-approved accreditation body], or the FDA may request a targeted clinical image review [due

to, but not limited to, serious complaints or severe items of non-compliance].

(r) [(bb)] Self-referral mammography. Any person proposing to conduct a self-referral mammography program must [shall] not initiate such a program without prior approval from [of] the department [agency]. When requesting such approval, the [that] person must [shall] submit the following information:

(1) the number and type of views (or projections);

(2) the age of the population to be examined and the frequency of the exam following established, nationally recognized criteria, such as those of the American Cancer Society, American College of Radiology (ACR), or the National Council on Radiation Protection and Measurements;

(3) written procedures to include methods of:

(A) advising a patient [patients] and healthcare provider [private physicians] of the results of the mammography examination as specified in [accordance with] subsection (j)(4) [(t)(2)] of this section;

(B) follow-up with patients and healthcare provider as specified [physicians] in [accordance with] subsection (j)(6) [(t)(3)] of this section; and

(C) recommending a healthcare provider to patients who do not have a healthcare provider when clinically indicated, to include when a patient's mammogram assessment is probably benign, suspicious, or highly suggestive of malignancy [physician means of selecting a physician]; and

(4) methods for educating mammography patients in breast self-examination techniques and on the necessity for follow-up by a physician.

(s) [(ee)] Medical research and investigational devices.

(1) Any research using radiation producing devices on humans must be approved by an IRB as required by [Title] 45[,] CFR[,] Part 46 and [Title] 21[,] CFR[,] Part 56. The IRB must include at least one licensed physician to direct any use of radiation as specified in [accordance with] §289.231(b) of this subchapter [title].

(2) Facilities with mammography machines with investigational device exemptions [that are] involved in clinical studies must comply with primary regulations governing [that govern] the conduct of clinical studies and that apply to the manufacturers, sponsors, clinical investigators, institutional review boards, and the medical device. These regulations include [the following]:

[(A) 21 CFR, Part 812, Investigational Device Exemptions;]

(A) [(B)] 21 CFR[,] Part 50, Protection of Human Subjects;

[(C) 21 CFR, Part 56, Institutional Review Boards;]

(B) [(D)] 21 CFR[,] Part 54, Financial Disclosure by Clinical Investigators;

(C) 21 CFR Part 56, Institutional Review Boards;

(D) 21 CFR Part 812, Investigational Device Exemptions; and

(E) 21 CFR[,] Part 820 [824], Subpart C, Design Controls [of the Quality System Regulation].

(t) [(dd)] Operating and safety [Other operating] procedures (OSP).

(1) Each facility must implement and maintain written OSP [Operating and safety procedures. Each registrant shall have and implement written operating and safety procedures that shall be made available to each individual operating x-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular system. These procedures shall include, but are not limited to, the items in subsection (hh)(3) of this section].

(2) The OSP must be available to each individual operating x-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular system.

(3) The facility's OSP must address the following requirements, as applicable:

(A) §289.203(b) of this chapter, related to posting notices to workers;

(B) §289.203(c) of this chapter, related to instructions to workers;

(C) §289.203(d) of this chapter, related to notifications and reports to individuals;

(D) §289.231(b) of this subchapter, related to ordering x-ray examinations;

(E) §289.231(m) of this subchapter, related to occupational dose requirements;

(F) §289.231(n) and (q) of this subchapter, related to personnel monitoring requirements;

(G) §289.231(x) and (y) of this subchapter, related to posting of a radiation area;

(H) subsection (h) of this section, related to credentialing requirements for LIPs, IPs, MRTs, and medical physicists;

(I) subsection (j)(7) of this section, related to retention of clinical images;

(J) subsections (k) - (m) of this section, related to quality assurance program;

(K) subsection (k)(1)(B)(i) of this section, related to image quality and corrective action for images of poor quality;

(L) subsection (l)(1) - (3) of this section, related to repeat analysis;

(M) subsection (n) of this section, related to procedures and techniques for mammography patients with breast implants;

(N) subsection (o) of this section, related to the procedure to handle complaints;

(O) subsection (r) of this section, related to self-referral mammography;

(P) subsection (u)(2) of this section, related to the use of a technique chart;

(Q) subsection (u)(5) of this section, related to exposure of individuals other than the patient;

(R) subsection (u)(6) of this section, related to use of protective devices; and

(S) subsection (u)(7) of this section, related to holding of patients or image receptors.

(u) Other operating procedures.

(1) Phantom image scoring protocol must be performed as specified in (l)(1) - (3) of this section.

(2) Technique chart. A technique chart or manual must [shall] be provided and followed. It must be [or electronically] displayed in the vicinity of the control panel of each machine that specifies technique factors used for a [to be utilized versus] patient's anatomical size. [The technique chart shall be used by all operators.]

(3) Receipt, transfer, and disposal of mammography machines. Each registrant must [shall] maintain records showing the receipt, transfer, and disposal of mammographic machines. These records must [shall] include the date of receipt, transfer, and [or] disposal; the name and signature of the person [individual] making the record; and the manufacturer's model name and serial number from the control panel of the mammographic machine. Records must [shall] be maintained as specified in [accordance with] subsection (x)[(ee)] of this section for inspection by the department [agency].

(4) Viewing system. Windows, mirrors, closed circuit television, or an equivalent system must [shall] be provided to permit the operator to continuously observe the patient during irradiation. The operator must [shall] be able to maintain verbal, visual, and aural contact with the patient.

(5) Exposure of an individual [individuals] other than the patient. Only the staff and ancillary personnel required for the medical procedure or training may [shall] be in the room during the radiation exposure unless such individual's assistance is required.

(6) Protective devices. Protective devices must [shall] be utilized when required, as in paragraph (7) of this subsection.

(A) Protective devices must [shall] be of no less than 0.25 millimeter (mm) lead equivalent material.

(B) Protective devices, including aprons, gloves, and shields must [shall] be checked annually for defects such as holes, cracks, and tears. These checks may be performed by the registrant by visual or tactile means, or x-ray imaging. If a defect is found, protective devices must [shall] be replaced or removed from service until repaired. A record of this test must [shall] be made and maintained by the registrant as specified in [accordance with] subsection (x) [(ee)] of this section for inspection by the department [agency].

(7) Holding of patient or image receptor.

(A) When a patient or image receptor must be held in position during radiography, mechanical supporting or restraining devices must [shall] be used when the exam permits.

(B) If a patient or image receptor must be held by an individual during an exposure, the [that] individual must [shall] be protected with appropriate shielding devices described in paragraph (6) of this subsection.

(C) The facility's [registrant's] written OSP specified in subsection (t) [operating and safety procedures required by paragraph (4)] of this section must [subsection shall] include the following:

(i) a list of circumstances in which mechanical holding devices cannot be routinely utilized; and

(ii) a procedure used for selecting an individual to hold or support the patient or image receptor.

(D) In those cases where the patient must hold the image receptor, any portion of the body other than the area of clinical interest struck by the useful beam must [shall] be protected by not less than 0.25 mm lead equivalent material.

(8) Calibration, maintenance, and modifications. Each registrant must [shall] maintain records showing calibrations, maintenance, and modifications performed on each mammographic machine.

These records must [shall] include the date of the calibration, maintenance, or modification performed; the name of the individual making the record; and the manufacture's model name and serial number of the control panel of the mammographic machine. These records must [shall] be maintained as specified in [accordance with] subsection (x) [(ee)] of this section.

[(ee) Record requirements. Records required by this section shall be maintained for inspection by the agency in accordance with paragraph (3) of this subsection. Records may be maintained electronically in accordance with §289.231(ff)(3) of this title.]

[(1) Records for mammography machines authorized for mobile service operations.]

[(A) Copies of the following shall be kept with mammography machines authorized for mobile services:]

[(i) operating and safety procedures in accordance with subsection (dd)(1) of this section;]

[(ii) medical radiologic technologists' credentials;]

[(iii) current quality control records for at least the last 90 calendar days for on-board processors in accordance with subsection (v)(1) of this section;]

[(iv) current §289.203 of this title, §289.226 of this title, §289.230 of this title, §289.231 of this title, and §289.234 of this title if accredited by the agency accreditation body;]

[(v) copy of certification;]

[(vi) certification of inspection in accordance with subsection (ff)(5) of this section;]

[(vii) notice of failure from last inspection in accordance with subsection (ff)(6) of this section, if applicable; and]

[(viii) copy of mammography accreditation.]

[(B) Copies of all other records required by this section shall be maintained at a specified location.]

[(2) Records required at separate authorized use locations. Copies of the following shall be kept at each separate authorized use location:]

[(A) credentials for interpreting physicians operating at that location in accordance with subsection (r)(1) of this section;]

[(B) credentials for medical radiologic technologists operating at that location in accordance with subsection (r)(2) of this section;]

[(C) credentials for medical physicists operating at that location in accordance with subsection (r)(3) of this section;]

[(D) continuing education and experience records for interpreting physicians, medical radiologic technologists, and medical physicists operating at that location in accordance with subsection (r)(1)(C), (2)(C), and (3)(C) of this section;]

[(E) mandatory training records for interpreting physicians and medical physicists operating at that location in accordance with subsection (r)(1)(E) and (2)(E) of this section, if applicable;]

[(F) current physicist annual survey of the mammography system;]

[(G) current §289.203 of this title, §289.226 of this title, §289.230 of this title, §289.231 of this title, and §289.234 of this title if accredited by the agency accreditation body;]

[(H) copy of certification;]

[(I) quality assurance program in accordance with subsections (u), (v), and (w) of this section;]

[(J) quality control records in accordance with subsection (u)(2) of this section;]

[(K) operating and safety procedures in accordance with subsection (dd)(1) of this section;]

[(L) records of receipts, transfers, and disposal in accordance with subsection (dd)(3) of this section;]

[(M) calibration, maintenance, and modification records in accordance with subsection (dd)(8) of this section;]

[(N) certification of inspection in accordance with subsection (ff)(5) of this section;]

[(O) notification of failure in accordance with subsection (ff)(6), if applicable;]

[(P) records of notification of patients in accordance with subsection (ff)(10) this section; and]

[(Q) copy of mammography accreditation.]

[(3) Time requirements for record keeping. Time requirements for record keeping shall be according to the following chart.] [Figure: 25 TAC §289.230(ee)(3)]

(v) [(ff)] Inspections. In addition to the requirements of §289.231(kk) of this subchapter [title], the following applies to inspections of mammography systems.

(1) The department [agency] may inspect each mammography system that receives a certification as specified in [accordance with] this chapter no [not] later than the 60th day after the date the certification is issued.

(2) The department [agency] may inspect, at least once annually, each mammography system that receives a certification.

(3) To protect the public health, the department [agency] may conduct more frequent inspections than required by this subsection.

(4) The department [agency] may make reasonable attempts to coordinate inspections in this section with other inspections required as specified in [accordance with] this chapter for the facility where the mammography system is used.

(5) After each satisfactory inspection, the department issues [agency shall issue] a certificate of inspection for each mammography system inspected. The certificate of inspection must [shall] be posted at a conspicuous place on or near the place where the mammography system is used. The certificate of inspection includes [may include] the [following]:

(A) specific identification of the mammography system inspected;

(B) [the] name and address of the facility where the mammography system was used at the time of the inspection; and

(C) [the] date of the inspection.

(6) Any severity level I violation involving a mammography system, determined [found] by the department [agency], as specified in [accordance with] §289.205 of this chapter [title], constitutes grounds for posting notice of failure of the mammography system to satisfy department [agency] requirements.

(A) Notification of such failure must [shall] be posted:

(i) on the mammography machine at a conspicuous place if the violation is machine-related; or

(ii) near the place where the mammography system practices if the violation is personnel-related; and

(iii) in a sufficient number of places to permit the patient to observe the notice.

(B) The notice of failure must [shall] remain posted until the facility is authorized to remove it by the department [agency]. A facility may post documentation of corrections of the violations submitted to the department [agency] along with the notice of failure until approval to remove the notice of failure is received from the department [agency].

(7) Facilities that receive a severity level I violation and are deemed a serious risk to human health must [shall] notify patients as specified in (q)(2) of this section. [on whom the facility performed a mammogram during the period in which the system failed to meet the agency's certification standards. The facility shall:]

[(A) inform the patient that the mammography system failed to satisfy the agency certifying body's standards;]

[(B) recommend that the patient consult with the patient's physician regarding the need for another mammogram; and]

[(C) list the three facilities closest to the original testing facility that have a certified mammography system.]

(8) In addition to the requirements of paragraph (7) of this subsection, the department [agency] may require a facility to notify a patient of any other failure of the facility's mammography system to meet the department's [agency's] certification standards.

(9) The patient notification must [shall] include the following:

(A) an explanation of the mammography system failure to the patient; and

(B) the potential consequences to the mammography patient.

(10) The facility must [registrant shall] make a record of the mammography patients notified as specified in [accordance with] paragraphs (7) and (8) of this subsection for inspection by the department [agency].

(A) The record must [records shall] include the name and address of each mammography patient notified, date of notification, and a copy of the text sent to the individual.

(B) The record must [records shall] be maintained as specified in [accordance with] subsection (x) [(ee)] of this section.

(w) [(gg)] Requirements for interventional breast radiography machines.

[(1) Prohibitions.]

[(A) The agency may prohibit use of interventional breast radiography machines that pose a significant threat or endanger public health and safety, in accordance with §289.231 and §289.205 of this title.]

[(B) Individuals shall not be exposed to the useful beam except for healing arts purposes and unless such exposure has been authorized by a licensed physician. The provision specifically prohibits intentional exposure of an individual for training, demonstration, or other non-healing arts purposes.]

[(2) Exemptions.]

[(A) Machines used exclusively for interventional breast radiography are not required to be accredited by an FDA-approved accreditation body.]

[(B) Loaner machines as described in subsection (n)(6) of this section are exempt from the inspection requirements in subsection (ff) of this section.]

[(C) All interventional breast radiography registrants are exempt from the posting of radiation area requirements of §289.231(x) of this title provided that the operator has continuous surveillance and access control of the radiation area.]

(1) [(3)] Interventional [Requirements for interventional] breast radiography machine certificate of registration (COR) [certification].

(A) A person who receives, possesses, uses, owns, or acquires [Each person having] an interventional breast radiography machine must apply for a certificate of registration as specified [shall submit an application in] [accordance with] §289.226(c) [(4) - (3), (5), and (7)] of this subchapter, relating to general requirements for application and registration [title], and must [shall] receive a COR [certification] from the department before using an interventional breast radiography machine on humans [agency within 30 days of beginning use].

(B) An application for a COR must [certification shall] be signed by:

(i) a licensed physician, and

(ii) the RSO [applicant and the RSO].

(C) An application for a COR [certification] may contain information on multiple interventional breast radiography machines. Each machine must be identified by referring to the machine's manufacturer, model name, and serial number located on the control panel.

(D) Each applicant must [shall] submit documentation of [evidence that] a [medical physicist's] survey [has been] performed by a medical physicist, as specified in [accordance with] paragraph (11)[(43)] of this subsection.

(2) [(4)] Issuance of a certificate of registration [certification].

(A) [Certification:] A COR [certification] for interventional breast radiography machines will be issued if the department [agency] determines the [that an] application meets the requirements of the Act and [the requirements of] this chapter. The COR [certification] authorizes the proposed operations and includes [activity in such form and contains such] conditions and limitations [as] the department [agency] deems [appropriate or] necessary.

(B) Conditions [Requirements and conditions]. The department [agency] may incorporate in the COR [certification] at the time of issuance, or [thereafter] by amendment, [such] additional requirements and conditions for [with respect to] the facility's [registrant's] possession, use, and transfer of radiation machines [subject to this chapter as it deems appropriate or] necessary [in order] to:

(i) minimize danger to occupational and public health and safety;

(ii) require additional reports and maintain [the keeping of] additional records as [may be appropriate or] necessary; and

(iii) prevent loss or theft of radiation machines subject to this section.

(C) Additional information. The department [agency] may request[, and the registrant shall provide,] additional information after the certification has been issued to enable the department [agency] to determine whether the certification should be modified as specified in [accordance with] §289.226(r) of this subchapter relating to renewal of a certificate of registration [title].

(3) [(5)] Modification, suspension, or revocation of the certificate of registration [certification]. Modification, suspension, or revocation of the COR must occur as specified [certification shall be] in [accordance with] §289.226(s) [(r)] of this subchapter [title].

(4) [(6)] Specific terms and conditions of the certificate of registration [certification]. Specific terms and conditions of the COR, as specified [certification shall be] in [accordance with] §289.226[(4)] of this subchapter, must be followed [title].

(5) Renewal of certification. The registrant must file an application for renewal of the COR as follows.

(A) A person who receives, possesses, uses, owns, or acquires an interventional breast radiography machine must apply for renewal as specified in §289.226(e)(1) - (3), (5), and (7) of this subchapter.

(B) An application for renewal must be signed by a licensed physician and the RSO.

(C) An application for renewal must include a medical physicist's survey as specified in paragraph (11) of this subsection.

(D) If a registrant files an application for renewal in proper form at least 30 days before the existing certification expires, the existing certification does not expire until the application status has been determined by the department.

(6) Expiration of the certificate of registration.

(A) COR of an interventional breast radiography machine expires at the end of the day in the month and year stated on the certificate. Expiration of the COR does not relieve the registrant of the requirements of this chapter.

(B) If a registrant does not apply for renewal of the certification under paragraph (8) of this subsection, as applicable, the registrant must:

(i) terminate use of all interventional breast radiography machines;

(ii) pay any outstanding fees as specified in §289.204 of this chapter; and

(iii) submit a record of the disposition of the interventional breast radiography machine to the department. If the machine was transferred, include to whom it was transferred.

(7) Termination of certification. When a registrant decides to terminate all activities involving an interventional breast radiography machine authorized under the COR, the registrant must notify the department immediately and:

(A) request termination of the COR in writing signed by the RSO, owner, or a person authorized to act on behalf of the registrant;

(B) pay any outstanding fees as specified in §289.204 of this chapter; and

(C) submit a record of the disposition of the interventional breast radiography machine to the department. If the machine was transferred, include to whom it was transferred.

(8) [(7)] Responsibilities of registrant.

[(A) The registrant shall comply with the following:]

[(i) purpose and scope in accordance with subsections (a) and (b) of this section; and]

[(ii) applicable definitions in subsection (e) of this section.]

(A) [(B)] In addition to the requirements of §289.226(m)(3) - (7) of this subchapter [title], a facility must [registrant shall] notify the department [agency] in writing before [prior to] any changes rendering [that would render] the information [contained] in the application or the COR [certification] inaccurate, including the[. These include but are not limited to the following]:

(i) name and mailing address;

(ii) street address where the interventional breast radiography machine [machine(s)] will be used; and

(iii) addition or removal of any interventional breast radiography machine [machine(s)].

(B) [(C)] If a facility makes a change in the RSO, the qualifications of the RSO must [shall] be submitted to the department [agency] within 30 days of such change.

(C) [(D)] A facility with an existing certification may begin using a new or replacement interventional breast radiography machine before receiving an updated certification if the registrant submits to the department the required [agency (required/prescribed)] documentation with a medical physicist's report as specified in [accordance with] paragraph (11) [(13)] of this subsection, verifying compliance of the new interventional breast radiography machine with this section. The medical physicist's report is required before [prior to] using the interventional breast radiography machine on patients.

(D) [(E)] Loaner interventional breast radiography machines may be used on patients for 60 days without adding the interventional breast radiography machine to the COR [certification]. A medical physicist's report verifying compliance of the loaner interventional breast radiography machine with this section must [shall] be completed before [prior to] use on patients. If the use period exceeds [will exceed] 60 days, the facility must [shall] add the interventional breast radiography machine to its certification and a fee will be assessed.

[(8) Renewal of certification. The registrant shall file an application for renewal of certification as follows:]

[(A) Each person having an interventional breast radiography machine shall submit an application for renewal in accordance with §289.226(e)(1) - (3), (5), and (7) of this title.]

[(B) An application for renewal shall be signed by the RSO, licensed physician, and the applicant.]

[(C) An applicant for renewal shall submit a medical physicist's survey in accordance with paragraph (13) of this subsection.]

[(D) If a registrant files an application for renewal in proper form at least 30 days before the existing certification expires, such existing certification shall not expire until the application status has been determined by the agency.]

[(9) Expiration of certification.]

[(A) Each certification of interventional breast radiography machine expires at the end of the day in the month and year stated on the certificate. Expiration of the certification does not relieve the registrant of the requirements of this chapter.]

~~[(B) If a registrant does not submit an application for renewal of the certification under paragraph (8) of this subsection, as applicable, the registrant shall on or before the expiration date specified in the certification:]~~

~~[(i) terminate use of all interventional breast radiography machines:]~~

~~[(ii) pay any outstanding fees in accordance with §289.204 of this title; and]~~

~~[(iii) submit a record of the disposition of the interventional breast radiography machine(s) to the agency. If the machine(s) was transferred, include to whom it was transferred.]~~

~~[(10) Termination of certification. When a registrant decides to terminate all activities involving interventional breast radiography machine(s) authorized under the certification, the registrant shall notify the agency immediately and do the following:]~~

~~[(A) request termination of the certification in writing signed by the RSO, owner, or an individual authorized to act on behalf of the registrant;]~~

~~[(B) pay any outstanding fees in accordance with §289.204 of this title; and]~~

~~[(C) submit a record of the disposition of the interventional breast radiography machine(s) to the agency certifying body. If the machine(s) was transferred, include to whom it was transferred.]~~

~~(9) [(11)] Personnel requirements.~~

~~(A) An operator must maintain [A medical radiologic technologist (operators of equipment) shall hold] a current general certificate as required by [in accordance with] the Medical Radiologic Technologist Certification Act, Texas Occupations Code[.] Chapter 601.~~

~~(B) A medical physicist must maintain [shall hold] a current Texas license as required by [under] the Medical Physics Practice Act, Texas Occupations Code[.] Chapter 602, in diagnostic radiological physics and be registered with the department [agency] or employed by an entity registered with the department [agency], as specified in [accordance with] §289.226(j) of this subchapter, relating to application for registration or radiation machine services, [title] and the Act, unless exempted by §289.226(d)(7)[(6)] of this subchapter, relating to exemptions [title].~~

~~(10) [(12)] Requirements to have a written quality assurance program. Requirements to have a written QA [quality assurance] program as described by the manufacturer or [and/or] the medical physicist to ensure the safety, reliability, clarity, and accuracy of services performed at the facility must [shall] comply with the following.~~

~~(A) If any failures are noted, corrective actions must [shall] be taken within the time frame established [indicated/established] by the manufacturer or medical physicist. If a time frame is not [In the event, that no time frames are] indicated, corrective action must [shall] be completed within 30 days of the failure.~~

~~(B) If any component tested fails the dosimetry test, the corrective action must [will] be taken before any further interventional breast radiography examinations are performed.~~

~~(11) [(13)] Interventional breast radiography machine evaluations and annual survey.~~

~~(A) Interventional breast radiography machines are required to have a medical physicist perform a survey:~~

~~(i) whenever a new interventional breast radiography machine is installed, or disassembled[;] and reassembled, at the same or a new location;~~

~~(ii) whenever major components of an interventional breast radiography machine are changed or repaired; and~~

~~(iii) annually or at intervals not to exceed 14 months from the date of the previous survey [on an annual basis].~~

~~(B) Annual survey. Annual surveys for interventional mammography machines must be conducted as specified, or substantially the same as specified, in the machine's QA program recommended by the manufacturer [The following quality assurance tests shall be performed: AEC, kVp, focal spot condition, HVL, collimation, alignments, and dosimetry tests in accordance with subsection (v)(5)(A) - (G) of this section].~~

~~(C) The medical physicist must [shall] provide the facility with a preliminary [oral or] written report of deficiencies within 72 hours of the survey if it involves dosimetry.~~

~~(D) The medical physicist must [shall] prepare a written report for the facility within 30 days of the date of the survey. The survey report must include a summary of the tests performed, all test conditions, specifications, results, and recommendations for corrective actions and [to include the following]:~~

~~(i) date, name, and signature of the medical physicist performing or supervising the survey; [a written survey report that includes a summary of the tests performed, all test conditions, specifications, results, and recommendations for corrective actions; and]~~

~~(ii) name and signature of each individual under the direct supervision of the medical physicist performing any part of the survey, as applicable; [date and signature of the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey.]~~

~~(iii) name of the facility;~~

~~(iv) address of facility;~~

~~(v) registration number of the facility;~~

~~(vi) make, model, and serial number from the machine control panel;~~

~~(vii) registration number of physicist and service company performing the survey;~~

~~(viii) service provider email address;~~

~~(ix) mailing or business address of the service provider performing the survey; and~~

~~(x) date of the last calibration of testing equipment.~~

~~(12) [(14)] Operating and safety procedures (OSP). Each facility must [registrant shall] have and implement written OSP [operating and safety procedures] that must [shall] be made available to each individual operating the x-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular system. These procedures must address the following requirements [shall include, but are not limited to]:~~

~~(A) [posting notices to workers in accordance with] §289.203(b) of this chapter, related to posting notices to workers [title];~~

(B) ~~[instructions to workers in accordance with] §289.203(c) of this chapter, related to instruction to workers [title];~~

(C) ~~§289.203(d) of this chapter, related to notifications and reports to individuals [in accordance with §289.203(d) of this title];~~

(D) ~~[ordering x-ray exams in accordance with] §289.231(b) of this subchapter, related to ordering x-ray examinations [title];~~

(E) ~~§289.231(m) of this subchapter, related to occupational dose requirements [in accordance with §289.231(m) of this title];~~

(F) ~~[personnel monitoring requirements in accordance with] §289.231(n) and (q) of this subchapter, related to personnel monitoring requirements [title];~~

(G) ~~paragraph (9) of this subsection, related to credentialing requirements for operators [medical radiologic technologists,] and medical physicists [in accordance with paragraph (11) of this subsection];~~

(H) ~~[use of a technique chart in accordance with] paragraph (19) [(22)] of this subsection, related to use of a technique chart;~~

(I) ~~paragraph (16) of this subsection, related to exposure of individuals other than the patient [in accordance with paragraph (18) of this subsection]; and~~

(J) ~~subsection (u)(7) of this section, related to holding of patients or image receptors [in accordance with subsection (dd)(7) of this section].~~

(13) ~~[(15)] Receipt, transfer, and disposal of interventional breast radiography machines. Each facility must [registrant shall] maintain records showing the receipt, transfer, and disposal of interventional breast radiography machines. These records must be maintained in subsection (x) of this section for inspection by the department and [shall] include the:~~

(A) ~~date of receipt, transfer, or disposal;~~

(B) ~~[the] name and signature of the individual making the record; and~~

(C) ~~[the] manufacturer's model name and serial number on the control panel. [These records shall be maintained in accordance with subsection (ee) of this section for inspection by the agency.]~~

(14) ~~[(16)] Calibration, maintenance, and modifications. Each facility must [registrant shall] maintain records showing calibrations, maintenance, and modifications performed on each interventional breast radiography machine. These records must be maintained as specified in subsection (x) of this section for inspection by the department and [shall] include the:~~

(A) ~~date of the calibration, maintenance, or modification performed;~~

(B) ~~[the] name of the individual making the record; and~~

(C) ~~[the] manufacturer's model name and serial number on the control panel. [These records shall be maintained in accordance with subsection (ee) of this section for inspection by the agency.]~~

(15) ~~[(17)] Viewing system. Windows, mirrors, closed circuit television, or an equivalent system must [shall] be provided to permit the operator to continuously observe the patient during irradiation. The operator must [shall be able to] maintain verbal, visual, and aural contact with the patient.~~

(16) ~~[(18)] Exposure of individuals other than the patient. Only the staff and ancillary personnel required for the medical procedure or training are allowed [shall be] in the room during the radiation exposure unless such individual's assistance is required.~~

~~[(19)] Maintenance of records. Maintenance of applicable records in subsection (ee) of this section.]~~

~~[(17)] [(20)] Inspection requirements. Inspections of interventional breast radiography machines are specified [Inspection requirements] in [accordance with] subsection (v)(2) - (4) [(ff)(2) - (4)] of this section.~~

~~[(18)] [(21)] Equipment requirements. Interventional breast radiography machines must meet the equipment [Equipment] requirements specified in [accordance with] §289.227(h) of this subchapter, [title (j) relating to certified x-ray systems [Use of Radiation Machines in the Healing Arts]].~~

~~[(19)] [(22)] Technique chart. A chart or manual must [shall] be provided or electronically displayed in the vicinity of the control panel of each interventional breast radiography machine that specifies technique factors used for a [to be utilized versus] patient's anatomical size. The technique chart must [shall] be used by all operators.~~

~~(x) Record requirements. Records specified in this section must be maintained for inspection by the department as specified in paragraph (3) of this subsection. Records may be maintained electronically as specified in §289.231(ff)(3) of this subchapter.~~

~~(1) Records for mammography machines authorized for mobile service operations.~~

~~(A) Copies of the following must be kept with mammography machines authorized for mobile services:~~

~~(i) OSP as specified in subsection (t)(1) of this section;~~

~~(ii) operator's credentials;~~

~~(iii) current quality control records for at least the last 90 calendar days for on-board processors as specified in subsection (l)(1) of this section;~~

~~(iv) current copies of §289.203, §289.226, §289.230, and §289.231 of this chapter;~~

~~(v) copy of certification;~~

~~(vi) certification of inspection as specified in subsection (v)(5) of this section;~~

~~(vii) notice of failure from last inspection as specified in subsection (v)(6) of this section, if applicable; and~~

~~(viii) copy of mammography accreditation.~~

~~(B) Copies of all other records specified in this section must be maintained at a specified location.~~

~~(2) Records required at separate authorized use locations. Copies of the following must be kept at each separate authorized use location:~~

~~(A) credentialing, continuing education, and continuing experience records for IPs, MRTs, and medical physicists operating at the location specified in subsection (h) of this section;~~

~~(B) mandatory training records for IPs and medical physicists operating at the location specified in subsection (h) of this section, if applicable;~~

~~(C) current physicist annual survey of the mammography system;~~

(D) current copies of §289.203, §289.226, §289.230, and §289.231 of this chapter;

(E) copy of certification;

(F) QA program as specified in subsections (k), (l), and (m) of this section;

(G) quality control records as specified in subsection (k)(2) of this section;

(H) OSP as specified in subsection (t)(1) of this section;

(I) records of receipts, transfers, and disposal as specified in subsection (u)(3) of this section;

(J) calibration, maintenance, and modification records as specified in subsection (t)(8) of this section;

(K) certification of inspection as specified in subsection (v)(5) of this section;

(L) notification of failure as specified in subsection (v)(6), if applicable;

(M) records of notification of patients as specified in subsection (v)(10) of this section; and

(N) copy of mammography accreditation.

(3) Retention requirements for record keeping. Time requirements for record keeping must be according to the following chart. Figure: 25 TAC §289.230(x)(3)

[(hh) Appendices-]

[(1) Subjects to be included in mammography training for medical radiologic technologists shall include, but not be limited to, the following-]

[(A) breast anatomy and physiology;]

[(B) positioning and compression;]

[(C) quality assurance/quality control techniques;]

[(D) imaging of patients with breast implants; and]

[(E) at least eight hours of training in each mammography modality to be used by the technologist in performing mammography exams-]

[(2) Subjects to be included in mammography training for interpreting physicians shall include, but not be limited to, the following-]

[(A) radiation physics, including radiation physics specific to mammography;]

[(B) radiation effects;]

[(C) radiation protection; and]

[(D) interpretation of mammograms. This shall be under the direct supervision of a physician who meets the requirements of subsection (r)(1) of this section-]

[(3) Operating and safety procedures. The registrant's operating and safety procedures shall include, but are not limited to, the following procedures as applicable-]

[(A) posting notices to workers in accordance with §289.203(b) of this title;]

[(B) instructions to workers in accordance with §289.203(e) of this title;]

[(C) notifications and reports to individuals in accordance with §289.203(d) of this title;]

[(D) ordering x-ray exams in accordance with §289.231(b) of this title;]

[(E) occupational dose requirements in accordance with §289.231(m) of this title;]

[(F) personnel monitoring requirements in accordance with §289.231(n) and (q) of this title;]

[(G) posting of a radiation area in accordance with §289.231(x) and (y) of this title;]

[(H) credentialing requirements for lead interpreting physicians, interpreting physicians, medical radiologic technologists, and medical physicists in accordance with subsection (r) of this section;]

[(I) retention of clinical images in accordance with subsection (t)(4) of this section;]

[(J) quality assurance program in accordance with subsections (u) - (w) of this section;]

[(K) image quality and corrective action for images of poor quality in accordance with subsection (u)(1)(B)(i) of this section;]

[(L) repeat analysis in accordance with subsection (v)(3)(B) of this section;]

[(M) procedures and techniques for mammography patients with breast implants in accordance with subsection (x) of this section;]

[(N) procedure to handle complaints in accordance with subsection (y) of this section;]

[(O) self-referral mammography in accordance with subsection (bb) of this section;]

[(P) use of a technique chart in accordance with subsection (dd)(2) of this section;]

[(Q) exposure of individuals other than the patient in accordance with subsection (dd)(5) of this section;]

[(R) use of protective devices in accordance with subsection (dd)(6) of this section; and]

[(S) holding of patients or image receptors in accordance with subsection (dd)(7) of this section-]

[(4) Phantom image scoring protocol for film-screen modality. Each of the following object groups are to be scored separately. In order to receive a passing score on the phantom image, all three test object groups must pass. A failure in any one of the areas results in a phantom failure-]

[(A) Fibers. A score of 4.0 for fibers is required to meet the evaluation criteria. The diameter size of fibers are 1.56 mm, 1.12 mm, 0.89 mm, 0.75 mm, 0.54 mm, and 0.40 mm. Score the fibers as follows-]

[(i) Begin with the largest fiber and move down in size, adding one point for each full fiber until a score of zero or one half is given. Stop counting at the first point where you lose visibility of objects-]

[(ii) If the entire length of the fiber can be seen and its location and orientation are correct, that fiber receives a score of one-]

{(iii) If at least half, but not all, of the fiber can be seen and its location and orientation are correct, that fiber receives a score of one half.}

{(iv) If less than one half of a fiber can be seen or if the location or orientation are incorrect, that fiber receives a score of zero.}

{(v) After determining the last fiber to be counted, look at the overall background for artifacts. If there are background objects that are fiber-like in appearance and are of equal or greater brightness than the last visible half or full fiber counted, subtract the last half or full fiber scored.}

{(B) Speck groups: A score of 3.0 for speck groups is required to meet the evaluation criteria. Diameter sizes of speck groups are 0.54 mm, 0.40 mm, 0.32 mm, 0.24 mm, and 0.16 mm. There are six specks per group. Score the speck groups as follows.}

{(i) Begin with the largest speck group and move down in size adding one point for each full speck group until a score of one half or zero is given, then stop.}

{(ii) If at least four of the specks in any group are visualized, the speck group is scored as one.}

{(iii) If two or three specks in a group are visualized, the score for the group is one half.}

{(iv) If one speck or no specks from a group are visualized, the score is zero.}

{(v) After determining the last speck group to receive a full or one-half point, look at the overall background for artifacts. If there are speck-like artifacts within the insert region of the phantom that are of equal or greater brightness than individual specks counted in the last visible half or full speck group counted, subtract the artifact speck from the observed specks in the last group scored, one by one. Note that the highest number of speck-like artifacts that can potentially be subtracted is the number of visible specks that were scored in the last group. Repeat the scoring of the last visible speck group after these deductions.}

{(C) Masses: A score of 3.0 is required to meet the evaluation criteria. Diameter sizes of masses are 2.00 mm, 1.00 mm, 0.75 mm, 0.50 mm, and 0.25 mm. Score the masses as follows.}

{(i) Begin with the largest mass and add one point for each full mass observed until a score of one half or zero is assigned.}

{(ii) Score one for each mass that appears as a minus density object in the correct location that can be seen clearly enough to observe round, circumscribed borders.}

{(iii) Score one half if the mass is clearly present in the correct location, but the borders are not visualized as circular.}

{(iv) After determining the last full or half mass to be counted, look at the overall background for artifacts. If there are background objects that are mass-like in appearance and are of equal or greater visibility than the last visible mass, subtract the last full or half point assigned from the original score.}

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 Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: April 6, 2025
For further information, please call: (512) 834-6655



25 TAC §289.234

STATUTORY AUTHORITY

The repeal is authorized by Texas Health and Safety Code Chapter 401 (the Texas Radiation Control Act), which provides for DSHS radiation control rules and regulatory program to be compatible with federal standards and regulations; §401.051, which provides the required authority to adopt rules and guidelines relating to the control of sources of radiation; §401.064, which provides for the authority to adopt rules relating to inspection of x-ray equipment; Chapter 401, Subchapter J, which authorizes enforcement of the Act; Chapter 401, Subchapter L, which provides for the Certification of Mammography Systems; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and the administration of Texas Health and Safety Code Chapter 1001.

§289.234. Mammography Accreditation.

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 Hernandez

General Counsel

Department of State Health Services

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION

SUBCHAPTER D. OTHER RULES

37 TAC §152.71

The Texas Board of Criminal Justice (board) proposes amendments to §152.71, concerning Acceptance of Gifts Related to Buildings for Religious and Secular Programs. The proposed amendments revise "offender" to "inmate" and "rule" to "section" throughout; revise the policy statement for clarity; remove language specifying a building related to the provision of religious and secular programs; add language to state the TDCJ shall meet with donor groups to evaluate a prospective donated

building or enhancement; revise language to state a donor or designee will be qualified; remove language requiring the building to be used for religious and secular programs; and add language to specify building enhancements.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogcomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.001, which authorizes the board to govern the department; §492.013, which authorizes the board to adopt rules; and §501.009, which requires the agency to adopt a policy requiring each warden to identify and encourage volunteer and faith-based organizations that provide programs for inmates.

Cross Reference to Statutes: None.

§152.71. *Acceptance of Gifts Related to Buildings for Religious and Secular Programs.*

(a) Policy. The Texas Board of Criminal Justice (TBCJ) and Texas Department of Criminal Justice (TDCJ) encourage public or private donations of buildings and building enhancements for the purpose of assisting the reintegration of inmates into society through religious and secular programs. The TBCJ is the only entity authorized to accept such gifts on behalf of the TDCJ. [Only the Texas Board of Criminal Justice (TBCJ) is authorized to accept gifts on behalf of the Texas Department of Criminal Justice (TDCJ) from any public or private source, for use in maintaining and improving correctional programs and services. The TBCJ also specifically and earnestly encourages the involvement of volunteers and volunteer organizations for the purpose of assisting the reintegration of offenders into society through religious and secular programs. Correctional facilities of the TDCJ benefit from donated additional space or enhancements to existing space for religious and secular programs. The TBCJ and the TDCJ actively encour-

age the donation of buildings and enhancements for buildings that are related to the provision of religious and secular programs.]

(b) Procedures.

(1) The TDCJ shall meet with donor groups for the purpose of evaluating a prospective donated [accepting a] building or building enhancement [for a building related to the provision of religious and secular programs]. The TBCJ respects the right of contributors to designate a specific project at a specific TDCJ unit for [at] which the donated building or building enhancement will be used.

(2) A donor or designee will [shall] be qualified to design and construct the donated building or enhancement in accordance with the TDCJ Administrative Plan for Capital Improvements by Donor Groups. Subject to final project approval by the executive director or designee, all plans for the building or enhancement must be approved by the Facilities Division. All design and construction activities by the donor or designee will be coordinated through the Facilities Division. The Capital Improvement Review Committee shall review and coordinate all steps pertaining to the project, ensuring all requirements of the TDCJ Administrative Plan for Capital Improvements by Donor Groups are followed. The donor or designee will design and construct the donated building or enhancement at no cost to the TDCJ.

(3) The TDCJ shall be the owner of the donated building or building enhancement and shall be responsible for the operation, control, and maintenance of the building or building enhancement[; which shall be used for religious and secular programs]. The naming of buildings obtained under this section [rule] shall be in accordance with 37 Texas Administrative Code §155.21.

(4) Buildings that serve as chapels provided by or enhanced by donations under this section [rule] shall be used to provide a place for all inmates [offenders] to practice their religion as guaranteed by the First Amendment to the United States Constitution, in accordance with TDCJ policy and procedures for facilitating the religious practices of inmates [offenders]. Furthermore, the buildings shall be used by inmates [offenders] to participate in religious and secular programs with volunteers, TDCJ chaplaincy staff, and other program personnel.

(5) These donations, including donations at privately-operated, state-owned facilities, shall be presented at a regularly scheduled meeting of the TBCJ for discussion, consideration, and possible action.

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 February 21, 2025.

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Stephanie Greger
General Counsel
Texas Department of Criminal Justice
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For further information, please call: (936) 437-6700



CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.33

The Texas Board of Criminal Justice (board) proposes amendments to §163.33, concerning Community Supervision Staff.

The proposed amendments revise "rule" to "section" throughout; revise the definition of "direct supervision"; and make grammatical and formatting updates.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

§163.33. *Community Supervision Staff*.

(a) Purpose.

(1) The purpose of this section [~~Community Justice Assistance Division (CJAD) rule~~] is to establish [~~set forth~~] the eligibility, professional training, certification, and record-keeping requirements for Community Supervision and Corrections Departments' (CSCDs) professional staff, direct care staff, and contract staff.

(2) Once the Community Justice Assistance Division (CJAD) [~~CJAD~~] has certified a community supervision officer (CSO) or residential CSO in accordance with this section [~~rule~~], the CSO or residential CSO will maintain certification and eligibility for certification provided they are in compliance with training hour requirements and are employed by a CSCD.

(3) CSCDs, CSOs, residential CSOs, direct care staff, and contract staff members who work at CSCDs, Substance Abuse Felony Punishment Facilities (SAFPFs), CSCD residential facilities, or Community Correction Facilities (CCFs) must comply with this section [~~rule~~].

(4) This section [~~rule~~] specifies the certification and training requirements for professional staff and direct care staff based on their status as a new employee, an employee with less than four years of experience, an employee with more than four years of experience, a returning employee, or an employee who is exempt from certain certification requirements based upon their years of on-the-job experience.

(b) Definitions.

(1) "Contract staff" are staff working at a CSCD or one of its facilities pursuant to a contract rather than as permanent, full-time employees of the CSCD.

(2) "CSOs" [~~are community supervision officers who~~] provide direct supervision to offenders on community supervision.

(3) "Direct care staff" provide [~~are staff providing~~] direct care within a residential facility operated by a CSCD.

(4) "Direct supervision" refers to a type of supervision described in Section 163.35(b)(1) [~~offenders who are legally on community supervision and who work or reside in the jurisdiction in which they are being supervised and receive a minimum of one face-to-face contact with a CSO every three months. Direct supervision begins at the time of initial face-to-face contact with an eligible CSO. Local CSCDs may maintain direct supervision of offenders living or working in adjoining jurisdictions if the CSCD has documented approval from the adjoining jurisdictions~~].

(5) "Professional staff," in [~~for purposes of~~] this section [~~rule~~], includes CSCD directors and assistant directors, CCF directors and assistant directors, CSO supervisory staff, CSOs, and residential CSOs.

(6) "Professional training" includes a formal presentation of specific behavioral learning objectives and skills or specific knowledge in actual day-to-day community supervision work [~~and~~] approved by the CSCD director, in writing, as professional training.

(7) "Residential CSOs" [~~are community supervision officers who~~] provide direct supervision to offenders sentenced to community supervision within a residential facility managed by a CSCD.

(c) Eligibility for Employment [~~employment~~] as a CSO or Residential [~~residential~~] CSO. To be eligible for employment as a CSO or residential CSO serving in a position of direct supervision of offenders, a person must:

(1) have [~~Have~~] a bachelor's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(2) not [~~Not~~] be [~~a person~~] employed or volunteering as a peace officer or working [~~work~~] as a reserve or volunteer peace officer;

(3) be [~~Be~~] eligible to supervise offenders in accordance with Texas Criminal Justice Information Services (CJIS) Access Policy; and

(4) become [~~Become~~] certified and attend professional training in accordance with this section [~~rule~~].

(d) Newly Hired [~~hired~~] CSO or Residential [~~residential~~] CSO Certification [~~certification~~]. A newly hired CSO or residential CSO shall complete the certification course and achieve a passing grade on the applicable CJAD certification examination within one year of the date of employment as a CSO or residential CSO. A CSO or residential CSO may complete course work and take examinations to achieve dual certification.

(1) A CSO or residential CSO who fails to achieve certification within the first year of employment shall not serve in a position

of direct supervision over offenders until certification is achieved unless the CJAD grants an extension for the completion of course work and re-examination.

(2) A CSO or residential CSO who completes the certification course work but fails to pass the certification examination may take the examination a second time. A CSO or residential CSO who fails the examination a second time shall complete the certification course again before taking the examination for the third and final time.

(3) A CSO or residential CSO who has failed the certification examination three times is eligible to pursue certification no sooner than two years after the last failed examination in accordance with this section [rule] and shall not serve in a position of direct supervision over offenders until certification is achieved.

(e) Exempt CSO and Residential [residential] CSO Certification [certification]. A CSO or residential CSO who has been continuously employed by any CSCD in Texas from on or before September 1, 1989, is exempt from the certification requirements. Certification courses and the certification examination, however, shall be available to exempt CSOs and residential CSOs. Exempt CSOs or residential CSOs who complete the certification course work but fail to pass the certification examination may take the examination a second time. An exempt CSO or residential CSO who fails the examination a second time may complete the certification course again before taking the examination for the third and final time. Although exempt from certification, exempt CSOs and residential CSOs are required to complete professional training each biennium in accordance with this section [rule].

(f) Recertification of Professional Staff Upon Re-employment [professional staff upon re-employment]. Professional staff subject to the certification provisions of this section [rule] who have left the employment of a Texas CSCD for more than one year are required to become recertified in accordance with this section [rule]. All professional staff [employees] who had less than one year of experience before leaving the employment of a CSCD must become certified or recertified in accordance with this section [rule].

(g) Professional Training of Professional Staff [training of professional staff].

(1) Professional staff with less than four years of experience shall complete at least 80 documented hours of professional training each biennium.

(A) Up to 40 hours in excess of the 80 required professional training hours may be carried over to the next biennium.

(B) Professional staff who fail to complete the required 80 hours of professional training within a biennium shall not serve in a position of direct supervision of offenders until the required professional training hours are completed.

(2) Professional staff with at least four years of experience shall complete at least 40 documented hours of professional training each biennium, beginning the biennium after which four years of experience is achieved.

(A) At least two of the required four years of experience shall have been earned as a full-time, wage-earning officer in Texas community supervision. Up to two of the four years of required experience may have been earned through work in juvenile probation or parole, adult parole, or similar work in other states. The required four years of experience is not required to be continuous.

(B) Up to 20 hours in excess of the 40 required professional training hours may be carried over to the next biennium.

(C) Professional staff who fail to complete the required 40 hours of professional training within a biennium shall not serve in a position of direct supervision over offenders until the required professional training hours are completed. Professional staff who are exempt from certification as defined in this section [rule] and fail to complete the required 40 hours of professional training within a biennium shall not serve in a position of direct supervision over offenders until the required professional training hours are completed.

(h) Training of CSOs Who Supervise SAFPF Program Participants [who supervise SAFPF program participants].

(1) CSOs who supervise participants in a SAFPF program shall complete the CJAD approved training designed for officers who supervise SAFPF program participants in [during the course of] treatment in a SAFPF and in the continuum of care component of the SAFPF program.

(2) The training shall be completed within one year of being assigned supervision of SAFPF program participants; unless the CJAD grants an extension for completion of the course work.

(3) CSOs who supervise SAFPF program participants and who fail to complete the CJAD approved SAFPF training shall not serve in a position of direct supervision over SAFPF program participants until the required CJAD approved SAFPF training is completed; unless the CJAD grants an extension.

(i) Direct Care Staff Certifications and Professional Training [care staff certifications and professional training].

(1) Newly Hired Direct Care Staff Certifications [hired direct care staff certifications]. Direct care staff working in a residential facility shall be required to complete the following types of training and obtain the required certifications within one year of their initial hire date as follows:

(A) training [Training] in ethics, discrimination, and sexual harassment;

(B) certification [Certification] in first aid procedures, cardiopulmonary resuscitation (CPR) procedures, and HIV/AIDS education. Direct care staff shall maintain certification in first aid procedures, CPR procedures, and HIV/AIDS education in accordance with the training authority's guidelines for frequency of training and certification in first aid procedures, CPR procedures, and HIV/AIDS education;

(C) residential [Residential] staff certification training offered by the CJAD; and

(D) a [A] defensive driving course. Direct care staff shall [and] provide certification of completion with a passing grade from the course provider to the CSCD director or designee. Direct care staff shall take defensive driving courses in accordance with the training authority's guidelines for frequency of training and certification in defensive driving.

(2) Direct care staff working in a residential facility shall be required to complete professional training as follows:

(A) All residential direct care staff, including contract staff, with less than four years of experience at the close of business on August 31st of any biennium, shall be required to complete a minimum of 40 hours of documented professional training per biennium.

(B) A minimum of 20 professional training hours per biennium shall be specific to the needs of the offender population served by the facility.

(C) Up to 20 hours in excess of the 40 required professional training hours may be carried over to the next biennium.

(3) Direct care residential staff with four or more years of experience at the close of business on August 31st of any biennium, regardless of when the four years of experience is achieved, shall complete at least 20 documented hours of professional training each biennium.

(A) In [For purposes of] this section, experience may include up to two years of prior employment as a correctional officer or direct care staff in a juvenile facility, jail, parole facility, state jail facility, prison, private vendor residential facility, or similar work in another state. At least two of the required four years of experience shall have been as a full-time, wage-earning direct care staff member in a CCF funded by the TDCJ CJAD in Texas. The required four years of experience is not required to be continuous.

(B) The reduced number of hours of required professional training for the direct care residential staff who have at least four years of experience shall not affect or reduce the training requirements regarding CPR, first aid, or defensive driving. A maximum of 10 hours earned in excess of the 20 required professional training hours may be carried over to the next biennium. Direct care residential staff who fail to complete the required 20 hours of training within a biennium shall not serve as direct care residential staff until the required hours are completed.

(j) Maintenance of Records [~~records~~]. Each CSCD director shall have a written policy that requires the maintenance of training records for all [~~each~~] professional staff, [~~or~~] direct care staff, [~~employee~~] and contract staff [~~member~~]. The CSCD director or designee shall ensure that training records for staff identified in this section [~~rule~~] are maintained and available for CJAD auditors. Those records shall include the:

(1) [~~The~~] number of professional training hours completed and the dates of the training;

(2) [~~The~~] specific training programs attended with supporting documentation;

(3) [~~The~~] specific certifications obtained with supporting documentation;

(4) [~~The~~] number of completed professional training hours certified in writing by the CSCD director or designee as professional training; and

(5) [~~The~~] number of professional training hours carried over from one biennium to the next biennium in accordance with this section [~~these rules~~].

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 February 24, 2025.

TRD-202500685
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Earliest possible date of adoption: April 6, 2025
For further information, please call: (936) 437-6700



37 TAC §163.42

The Texas Board of Criminal Justice (board) proposes amendments to §163.42, concerning Substantial Noncompliance. The proposed amendments reflect the Office of Internal Audit as independent of the TDCJ.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogcomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

§163.42. *Substantial Noncompliance.*

(a) Definition. Substantial noncompliance with the Texas Department of Criminal Justice Community Justice Assistance Division (TDCJ CJAD) standards, for purposes of Texas Government Code §509.012, is defined as:

(1) intentional diversion, theft, or misapplication of TDCJ CJAD funding or grants for purposes other than the state funding award or allocation;

(2) violations of laws, regulations, or official manuals specific to the operations of the community supervision and corrections departments (CSCDs);

(3) intentional refusal to implement a TDCJ CJAD approved action plan that is a result of audits, reviews, or inspections;

(4) for purposes of qualifying for state aid under 37 Texas Administrative Code §163.43(a)(1)(F), relating to Funding and Financial Management, failure to hold the meeting to finalize the CSCD budget as required by Texas Local Government Code §140.004; and

(5) interference, obstruction, or hindrance with any efforts by the Texas Comptroller of Public Accounts, county auditor of the county that manages the CSCD's funds, TDCJ CJAD, Texas Board of Criminal Justice Office of the Independent Auditor [~~TDCJ Internal Audit Division~~], Legislative Budget Board, Texas State Auditor's Office, or Texas Sunset Advisory Commission to examine or audit the records, transactions, and performance of the CSCD or facilities.

(b) Imposing Sanctions. Sanctions imposed for substantial noncompliance shall be in accordance with the provisions outlined in 37 Texas Administrative Code §163.47, relating to Contested Matters.

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 February 21, 2025.

TRD-202500660

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: April 6, 2025

For further information, please call: (936) 437-6700



WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 104. CONTINUING EDUCATION

22 TAC §104.1

The State Board of Dental Examiners withdraws proposed amendments to 22 TAC §104.1 which appeared in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9864).

Filed with the Office of the Secretary of State on February 21, 2025.

TRD-202500679

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: February 21, 2025

For further information, please call: (737) 363-2333



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.33

The Texas Department of Criminal Justice withdraws proposed amendments to 37 TAC §163.33 which appeared in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10497).

Filed with the Office of the Secretary of State on February 24, 2025.

TRD-202500684

Stephanie Greger

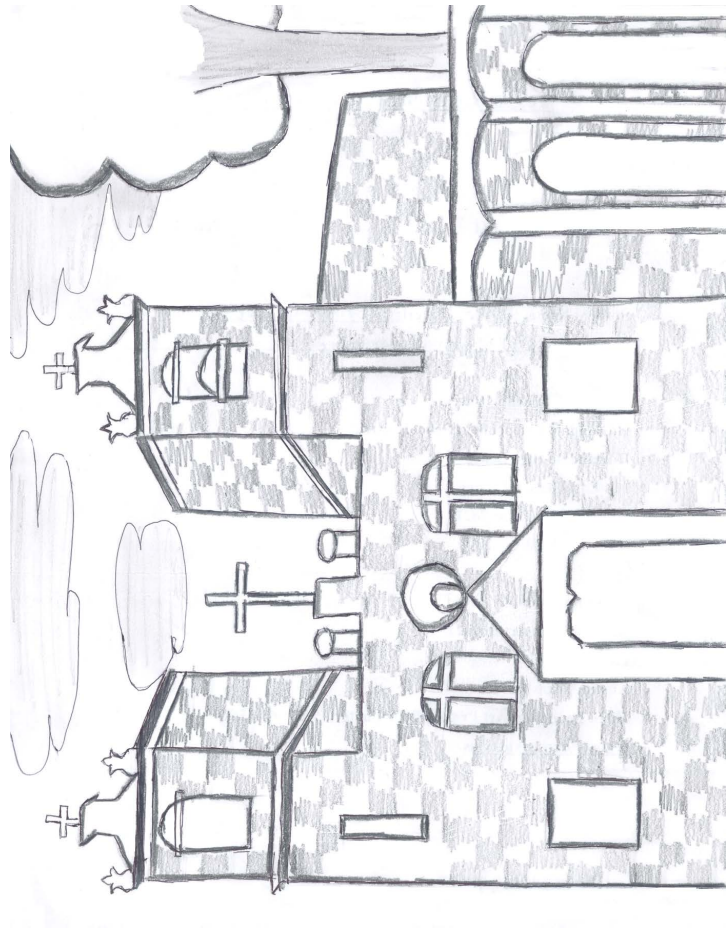
General Counsel

Texas Department of Criminal Justice

Effective date: February 24, 2025

For further information, please call: (936) 437-6700





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Office of Inspector General (OIG), adopts in the Texas Administrative Code, Title 1, Part 15, Chapter 371 amendments to §371.1, concerning Definitions; §371.3, concerning Purpose and Authority; §371.31, concerning Federal Felony Match; §371.1011, concerning Recommendation Criteria; §371.1305, concerning Preliminary Investigation; §371.1613, concerning Informal Resolution Process; §371.1663, concerning Managed Care; §371.1669, concerning Self-Dealing; and §371.1709, concerning Payment Hold.

The amendments to §§371.1, 371.3, 371.31, 371.1011, 371.1305, 371.1613, 371.1663, 371.1669, and 371.1709 are adopted without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8797). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

House Bill 4611, 88th Legislature, Regular Session, 2023, made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The amendments are necessary to update citations in the rules to reflect changes in the organization of the Texas Government Code sections that become effective on April 1, 2025. The proposed amendments update the affected citations to the Texas Government Code and revise Texas Administrative Code references.

COMMENTS

The 31-day comment period ended December 9, 2024.

During this period, OIG did not receive comments regarding the proposed amendments to the rules.

SUBCHAPTER B. OFFICE OF INSPECTOR GENERAL

1 TAC §§371.1, 371.3, 371.31

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500632

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 1, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 221-7320



SUBCHAPTER E. PROVIDER DISCLOSURE AND SCREENING

1 TAC §371.1011

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation

with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500633

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 1, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 221-7320



SUBCHAPTER F. INVESTIGATIONS

1 TAC §371.1305

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500634

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 1, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 221-7320



SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS

DIVISION 1. GENERAL PROVISIONS

1 TAC §371.1613

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500635

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: April 1, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 221-7320



DIVISION 2. GROUNDS FOR ENFORCEMENT

1 TAC §371.1663, §371.1669

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500636

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: April 1, 2025
Proposal publication date: November 8, 2024
For further information, please call: (512) 221-7320



DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS

1 TAC §371.1709

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

TRD-202500637
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: April 1, 2025
Proposal publication date: November 8, 2024
For further information, please call: (512) 221-7320



CHAPTER 377. CHILDREN'S ADVOCACY PROGRAMS

SUBCHAPTER B. STANDARDS OF OPERATION FOR LOCAL COURT-APPOINTED VOLUNTEER ADVOCATE PROGRAMS

1 TAC §377.107, §377.113

The Texas Health and Human Services Commission (HHSC) adopts amendments to §377.107, concerning Contract with Statewide Volunteer Advocate Organization, and §377.113, concerning Local Volunteer Advocate Program Administration.

The amendments are adopted without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8810). The rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with House Bill (H.B.) 474, 88th Legislature, Regular Session, 2023, which amends Texas Family Code §264.603 and §264.604, which requires HHSC to include in the contract measurable goals and objectives for the number of active and inactive volunteers in the Court Appointed Volunteer Advocate Program, and to ensure the statewide volunteer advocate organization adopts a grievance process for complaints regarding negligence or misconduct by a volunteer advocate.

COMMENTS

The 31-day comment period ended December 9, 2024.

During this period, HHSC received a comment regarding the proposed rules from one commenter, Texas CASA, Inc. A summary of the comment relating to the rules and HHSC's responses follows.

Comment: The comment requests a change to the way inactive volunteers are counted and measured. The commenter wants to separate active and inactive volunteers and remove the requirement for measurable goals and objectives for inactive volunteers.

Response: HHSC disagrees and declines to revise the rule in response to this comment. H.B. 474, codified in Texas Family Code §264.603(a), requires measurable goals and objectives for both active and inactive volunteers. Goals and objectives for active volunteers may vary from the goals and objectives of inactive volunteers.

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, and Texas Family Code §264.609, which authorizes the Executive Commissioner of HHSC to adopt rules governing the Court Appointed Volunteer Advocate Program.

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 February 18, 2025.

TRD-202500588
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: March 10, 2025
Proposal publication date: November 8, 2024
For further information, please call: (512) 460-0992



TITLE 7. BANKING AND SECURITIES

PART 1. FINANCE COMMISSION OF TEXAS

CHAPTER 2. RESIDENTIAL MORTGAGE
LOAN ORIGINATORS REGULATED BY
THE OFFICE OF CONSUMER CREDIT
COMMISSIONER
SUBCHAPTER A. APPLICATION
PROCEDURES

7 TAC §2.102

The Finance Commission of Texas (commission) adopts the amendments to §2.102 (relating to Registration with Nationwide Mortgage Licensing System and Registry) in 7 TAC Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The commission adopts the amendments to §2.102 without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10451). The rule will not be republished.

The commission did not receive any official comments on the proposed amendments.

The rule at §2.102 relates to procedures for an individual to register with the NMLS system as a residential mortgage loan originator (RMLO). In general, the purpose of the adopted rule changes to 7 TAC §2.102 is to remove language providing that certain entities are not required to register with NMLS, in order to support efforts to migrate license groups to NMLS.

The Office of Consumer Credit Commissioner (OCCC) distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. During the webinar, the OCCC answered questions from stakeholders about the rule changes. The OCCC appreciates the input provided by stakeholders. The OCCC did not receive any written precomments on the rule text draft.

The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. State agencies created NMLS in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. Federal SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and 59 state agencies use the system for licensing mortgage companies. See NMLS, Q1 2024 Mortgage Industry Report (June 2024). NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types. During calendar year 2025, the OCCC intends to begin a phased process of migrating license groups from ALECS (the OCCC's current licensing platform) to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Currently, the rule at §2.102 describes procedures for an individual to register with NMLS as an RMLO. Current §2.102(b)

states: "Entities licensed or applying for a license with the OCCC to make, transact, or negotiate residential mortgage loans are not required to register with NMLS."

Adopted amendments to §2.102 remove current subsection (b). This change will support the OCCC's efforts to migrate license groups to NMLS. This change is consistent with the OCCC's authority under Texas Finance Code, §14.109, to require use of the NMLS system for certain license and registration types. Other adopted amendments throughout §2.102 renumber other subsections accordingly.

The rule amendments are adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Chapter 14 and Title 4. In addition, Texas Finance Code, §180.004, authorizes the commission to implement rules necessary to comply with Texas Finance Code, Chapter 180, and to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act. Also, Texas Finance Code, §180.061, authorizes the commission to adopt rules establishing requirements for licensing through NMLS.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 180.

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 February 21, 2025.

TRD-202500656

Matthew Nance

General Counsel, Office of Consumer Credit Commissioner
Finance Commission of Texas

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For further information, please call: (512) 936-7659



PART 7. STATE SECURITIES BOARD

**CHAPTER 115. SECURITIES DEALERS AND
AGENTS**

**7 TAC §§115.1 - 115.6, 115.8 - 115.11, 115.16, 115.21, 115.22,
115.24**

The Texas State Securities Board adopts amendments to §115.1, concerning General Provisions; §115.2, concerning Application Requirements; §115.3, concerning Examination; §115.4, concerning Evidences of Registration; §115.5, concerning Minimum Records; §115.6, concerning Registration of Persons with Criminal Backgrounds; §115.8, concerning Fee Requirements; §115.9, concerning Post-Registration Reporting Requirements; §115.10, concerning Supervisory Requirements; §115.11, concerning Finder Registration and Activities; §115.16, concerning Use of Senior-Specific Certifications and Professional Designations, §115.22, concerning Electronic Submission of Forms and Fees; and adopts new §115.24, concerning Adoption by Reference of Conduct Rules. The Board also adopts amendments to §115.21, concerning System Addressing Suspected Financial Exploitation of Vulnerable

Customers Pursuant to the Texas Securities Act, Section 45, which includes renaming the caption of the section to read "System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities Act, Chapter 4004, Subchapter H."

The proposals were published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8814), and corrected in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10440). The amendment to §115.1 was adopted with changes to the published proposal and will be republished. The change consisted of amending §115.1(a)(2)(A)(vi) and (vii) to move the "and" connector from the end of (A)(vi) to the end of (A)(vii), which is necessary due to the addition of new (A)(viii). The new rule §115.24 and the amendments to §§115.2 - 115.6, 115.8 - 115.11, 115.16, 115.21, and 115.22 were adopted without changes and will not be republished.

The rules in 7 TAC Chapter 115 govern securities dealers and agents. The purpose of the adoption of a new rule and amendments to thirteen rules in this chapter is to implement changes pursuant to the agency's periodic review of its rules. These changes improve the readability, consistency, and clarity of the rules in this chapter, and ensure the rules are current, accurate, and conform to the codified version of the Texas Securities Act (Act), which promotes transparency and efficient regulation.

The references to sections of the Act in §§115.1, 115.3 - 115.5, 115.8, 115.16, and 115.21 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

Sections 115.3 and 115.5 are amended to replace the references in those sections to the term "Securities and Exchange Commission" with the term "SEC." SEC is a defined term in §107.2, concerning Definitions.

Section 115.5 is amended to abbreviate a cite to the Code of Federal Regulations found in subsection (a). CFR is a defined term in §107.2, concerning Definitions.

Section 115.1 is amended to add "or 'in this state'" to subsection (a)(8) to conform the definition of "within this state" to language used in the codified Act and to delete redundant language in subsection (b)(2)(D) that is also contained in subsection (d). In addition, subsection (c)(2) is amended to correct a cross reference.

Section 115.3 is amended to replace the reference to "North American Securities Administrators Association" with the term "NASAA" in subsection (a)(1). NASAA is a defined term in §107.2, concerning Definitions. In addition, subsection (b)(4) is amended to update the names of two NASAA examinations.

Amendments to §§115.3(c)(3)(D), 115.5(b)(13), and 115.6(g) are made to remove or update outdated language.

Section 115.5 is amended to abbreviate a reference to "Central Registration Depository" as "CRD" for consistency.

An additional amendment to §115.1 relates to the definition of a dealer's branch office. The definition of a dealer's "branch office" set forth in §115.1(a)(2) is amended to incorporate and recognize a rule adopted by the Financial Industry Regulatory Authority (FINRA) that establishes a new designated location category referred to as a "residential supervisory location" (or RSL). Dealer firms that are members of FINRA may designate certain locations where they do business as an RSL instead

of a "branch office," if the firm and location meet specified criteria and conditions set forth in FINRA rules. Texas locations that are designated by dealers registered in Texas as RSLs under FINRA rules are excluded from the definition of a dealer's "branch office." This change reduces compliance costs and administrative burdens for dealers because it results in registered dealers no longer needing to make a branch office notice filing with the agency for locations that are RSLs, which locations are treated under the rules as non-branch locations.

Section 115.2 is reorganized, and a cross reference to §115.22 is added to §115.2 to improve consistency and readability of provisions governing application requirements. In addition, subsection (d) is amended to allow the agency registration staff the option to notify applicants by email (which is a faster and more reliable delivery method) rather than by certified mail of automatic withdrawal of applications that have been pending for more than 90 days. This change facilitates the internal processing of registration applications by reducing the use of staff resources. References to "certificate of formation" which is the name of the form used by the Texas Secretary of State for formation documents filed with it, are added to the respective lists of formation or organization documents (including articles of incorporation, partnership agreements, articles of association, and charters) found in §115.2(a)(2)(A), as well as in §115.5(e)(5), for clarity and to improve accuracy.

Section 115.3 is amended to add new subsection (c)(5)(A) and (c)(5)(B) to recognize and grant waivers of examination or re-examination requirements for certain classes of applicants who are participating in FINRA's Maintaining Qualifications Program (MQP) or NASAA's Exam Validity Extension Program (EVEP) and meet other requirements. Section 115.3 is also amended to add subsection (c)(5)(C) to recognize and grant waivers of examination requirements for applicants who have received an examination waiver from FINRA.

The amendments to §115.3(c) provide greater coordination with other securities regulators and reduce the application processing time for eligible applicants and compliance costs for their firms. Waivers will be processed with more consistency, uniformity, and transparency.

In addition to the amendments to §115.3(c), §115.3(d) is amended to update the rule to more accurately reflect the Texas securities law examination process, and to specifically direct applicants with questions about the process to the Registration Division for information, which increases transparency. This subsection is also amended to impose a one-week waiting period to retake the examination for applicants who failed the exam to provide and encourage more time to study prior to retaking the exam.

Section 115.8, which relates to fee requirements, is amended to remove an incorrect reference in subsection (a) to fees for officers and partners of a securities dealer, to update the reference to the agency's website, and to clarify that persons seeking information on fee requirements may contact the Registration Division of the agency.

Section 115.9, which sets out events that a registered dealer or agent must report to the Securities Commissioner after registration, is amended in subsection (a)(3) to clarify that misdemeanor offense actions that are listed in §115.6(c) of this chapter must be reported. In addition, §115.9(a)(6) is amended to clarify that registered entities must notify the Commissioner of changes in legal status of their entities. These amendments apprise deal-

ers and agents of their obligations under the Act which promotes transparency.

Section 115.10, which relates to supervisory requirements of dealers, is amended to incorporate and recognize FINRA's Remote Inspections Pilot Program (RIPP). Former subsection (c) which governed internal inspections of dealers, is now divided into two paragraphs, with new subsection (c)(1) including the language in former subsection (c) with slight amendments and additions, and new subsection (c)(2) being new language that addresses the RIPP and its participants. This change clarifies that dealers registered in Texas that are participating in the RIPP will be in compliance with §115.10(c) if they conduct their internal inspections programs in compliance with FINRA rules. Through this amendment, greater coordination among securities regulators is achieved, and administrative burdens for firms are reduced which reduces compliance costs. Dealers are also notified of required content for their supervisory systems which improves their ability to carry out their supervisory duties.

Section 115.11(a) is amended to remind and inform finder applicants that finders by the definition set forth in §115.1(a)(9) are not permitted to register in other capacities. In addition, §115.11(f) is amended to correct a cross reference and to remove an outdated reference to filings being in paper form.

Section 115.21 is renamed to refer to the applicable section of the codified Act.

Section 115.22 is revised to add a reference to finder registration in subsection (b) for clarification that finder applicants may submit documents electronically, and to remove an unneeded reference to dealers and agents in §115.22(c).

New rule §115.24 adopts by reference an SEC rule governing dealer conduct referred to as the SEC Regulation Best Interest (or Regulation BI). The new rule also adopts by reference other fair practice, ethical standard, or conduct rules promulgated by FINRA, the SEC, the United States Commodity Futures Trading Commission (CFTC), or any self-regulatory organization approved by the SEC or the CFTC. Regulation BI established and standardized a "best interest" standard of conduct for FINRA dealers and their agents when recommending securities transactions or investment strategies to retail investors. Activities and practices that do not comply with the requirements of Regulation BI or the other conduct rules enumerated in the adopted rule, may constitute bases for denials, suspensions, or revocations of the registrations of dealers or agents. A related change amends §115.5, concerning Minimum Records, requiring additional related recordkeeping requirements to verify compliance with new rule §115.24. Since Regulation BI went into effect, agency staff have used this standard for guidance as to what conduct constitutes an inequitable practice under the Act involving retail investors of dealers or agents registered in Texas. The new rule appraises dealers and agents of their obligations under the Act and of the types of activities or practices which may result in sanctions under the Act. The rule allows the Securities Commissioner the flexibility to assess administrative fines against violators of these requirements, which furthers the Board's mission to protect Texas investors. Greater coordination with other securities regulators is also achieved.

The Board received five public comment letters regarding the rulemaking in Chapter 115. One letter was from the corporate office of LPL Financial, a registered broker-dealer firm. A second letter was from 365 of LPL's financial professionals in Texas. The other three support letters were from securities industry trade

groups: Financial Planning Association (FPA), Insured Retirement Institute (IRI), and the Securities Industry and Financial Markets Association (SIFMA). The commenters all expressed general support for the proposals. The Board appreciates the support expressed by these commenters.

LPL Financial and SIFMA submitted comment letters strongly supporting the proposal to amend §115.1 to incorporate and recognize FINRA's RSL rule, along with the other proposed rule-making. SIFMA commented that the proposal will enable firms to maintain qualified talent in essential positions without sacrificing compliance, security, or investor protection, and commended the Board for recognizing the value of the FINRA rule and quickly seeking to incorporate it into Texas' own regulations. The Board appreciates the support for this change.

LPL Financial and SIFMA strongly supported the proposal to amend §115.3 relating to waivers from examination requirements. LPL and SIFMA both believe the proposal is important for preserving their diverse pipelines of talent, by encouraging professionals who have departed the industry to return to the sector when life circumstances permit. The Board appreciates the support for this change.

LPL Financial and SIFMA also strongly supported the proposal to amend §115.10 to recognize the FINRA RIPP rule. SIFMA specifically commented that the proposal will enable Texas firms to participate in the RIPP without fear of violating Texas' supervisory requirements. Recognizing the RIPP, SIFMA states, will help industry retain its workforce and help demonstrate that technology can be used to perform required inspections of certain lower-risk locations remotely. Similarly, LPL stated that the RIPP will show that remote inspections are equally as effective as on-site inspections for low-risk branches. The Board appreciates the support for this change.

LPL Financial, SIFMA, the FPA, the IRI, and the financial professionals at LPL strongly supported the proposed new rule §115.24 to adopt Regulation BI and other conduct rules by reference. FPA expressed its strong support for the Board's commitment to harmonize federal and state securities laws and stated that the proposal will protect Texas retirement savers' and other retail consumers' interests while ensuring that its members are able to operate their businesses under a streamlined and effective regulatory regime. LPL appreciated the Board's approach to working with the industry during the rule review and drafting period to ensure that stakeholder comments are thoughtfully considered, which has resulted in a proposal that would further strengthen investor protections, create predictability, and streamline operations and compliance requirements. They also appreciated that Texas is "sensibly" adopting SEC rules by reference rather than using "misaligned language unique to the state," and also expressed that adoption by reference would remove any ambiguity about variations between state and federal securities laws. The Board appreciates the support for this new rule.

SIFMA specifically noted that the proposal ensures retail customers in Texas get the protection and benefits of this heightened standard while also giving the Board additional authority to address situations where a registered firm or professional falls short of this standard. It particularly appreciated that the language incorporates an existing national standard that is "working well" and noted that with many firms doing business in multiple states, a "single, uniform standard provides consistency, makes compliance efforts more efficient, and ensures client choice." The Board appreciates the commenters' support and feedback for this change.

FPA requested that the Board consider adopting a rule that would specifically prohibit registered professionals that are not dually registered with the agency as investment advisers or investment adviser representatives from using the words "advisor" or "adviser" in their names or titles. By way of background the SEC requested comments on whether it should adopt a rule prohibiting this activity as part of its request for comments on the Regulation BI proposal. The comments received in response to the SEC's request were mixed--some in support and others that opposed having a separate rule prohibiting the use of titles. After consideration the SEC ultimately determined that having a separate rule prohibiting titles was inadvisable and not needed for various reasons, including that Regulation BI's capacity disclosure obligation covered this activity. In addition to the SEC declining to adopt such a rule, NASAA has not yet adopted a model rule on this issue.

The Board agrees with the SEC that a separate rule on titling is not needed and inadvisable, as among other reasons, there are other potentially legitimate uses of these titles by registrants that are not dually registered as investment advisers. For these reasons the Board appreciates the suggestion of a new rule but declines to implement the recommended change. Staff will continue to monitor this issue and if staff recommends it, the Board may reconsider the need for a titling rule in the future.

This concludes the description of the public comments and the Board's responses.

The new rule and amendments are adopted under the authority of the Texas Government Code (TGC), §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. In addition, the amendments to §115.3 are adopted under the authority of TGC §4004.151. Section 4004.151 of the Act provides the Board with authority to waive examination requirements for any applicant or class of applicants.

The adopted new section and amendments affect the following sections of the Texas Securities Act: TGC Chapter 4004, Subchapters A - D, and F - G. The adopted amendment to §115.21 affects Chapter 4004, Subchapter H of the Act. The adopted amendment to §115.22 also affects TGC §4006.001 of the Act. The adopted amendment to §115.1 also affects TGC §4007.052 of the Act. The adopted amendments to §115.5 and §115.21 and adopted new rule §115.24 affect TGC §4007.105. Finally, the adopted amendment to §115.5 and adopted new rule §115.24 also affect TGC §4007.106. Statutes affected by adopted amendments to §§115.4, 115.8, and 115.16: none.

§115.1. General Provisions.

(a) Definitions. Words and terms used in this chapter are also defined in §107.2 of this title (relating to Definitions). The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A person who submits an application for registration as a dealer or an agent.

(2) Branch office--Any location where one or more agents of a dealer regularly conduct the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or that is held out as such.

(A) This definition excludes:

(i) any location that is established solely for customer service and/or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;

(ii) any location that is the agent's primary residence, provided that:

(I) only one agent, or multiple agents who reside at that location and are members of the same immediate family, conduct business at the location;

(II) the location is not held out to the public as an office and the agent does not meet with customers at the location;

(III) neither customer funds nor securities are handled at that location;

(IV) the agent is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements, and other communications to the public by such agent;

(V) the agent's correspondence and communications with the public are subject to the dealer's supervision;

(VI) electronic communications (e.g., e-mail) are made through the dealer's electronic system;

(VII) all orders are entered through the designated branch office or an electronic system established by the dealer that is reviewable at the branch office;

(VIII) written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the dealer; and

(IX) a list of the residence locations are maintained by the dealer;

(iii) any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the dealer complies with the provisions of clause (ii)(II) - (VIII) of this subparagraph;

(iv) any office of convenience, where agents occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

(v) any location that is used primarily to engage in non-securities activities and from which the agent(s) effects no more than 25 securities transactions in any one calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the agent(s) conducting business at the non-branch locations are directly supervised;

(vi) the floor of a registered national securities exchange where a dealer conducts a direct access business with public customers;

(vii) a temporary location established in response to the implementation of a business continuity plan; and

(viii) a location identified and designated with FINRA by the registered dealer as a residential supervisory location (RSL) in accordance with FINRA Rule 3110.19, and which location has been provided to FINRA in accordance with FINRA Rule 3110.19(d).

(B) Notwithstanding the exclusions in subparagraph (A) of this paragraph, any location other than an RSL that meets the requirements of §115.1(a)(2)(A)(viii) that is responsible for supervising the activities of persons associated with the dealer at one or more non-branch locations of the dealer is considered to be a branch office.

(C) The term "business day" shall not include any partial business day provided that the agent spends at least four hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

(3) Supervisor--The person named by a dealer to supervise the activities of a branch office and registered as an agent with the Securities Commissioner.

(4) Control--The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or company, whether through the ownership of voting securities, by contract, or otherwise.

(5) In this state--As used in the Texas Securities Act, §§4001.052, 4001.056, 4004.051, and 4004.101, has the same meaning as the term "within this state" as defined in §107.2 of this title and paragraph (8) of this subsection.

(6) FINRA--The Financial Industry Regulatory Authority, created through the consolidation of NASD and the member regulation, enforcement, and arbitration functions of the New York Stock Exchange.

(7) Officer--A president, vice president, secretary, treasurer, or principal financial officer, comptroller, or principal accounting officer, or any other person occupying a similar status or performing similar functions with respect to any organization or entity, whether incorporated or unincorporated.

(8) Within this state or in this state--

(A) A person is a "dealer" who engages "within this state" or "in this state" in one or more of the activities set out in the Texas Securities Act, §4001.056 or §4004.051, if either the person or the person's agent is present in this state or the offeree/purchaser or the offeree/purchaser's agent is present in this state at the time of the particular activity. A person can be a dealer in more than one state at the same time.

(B) Likewise, a person is an "agent" who engages "within this state" or "in this state" in one or more of the activities set out in the Texas Securities Act, §4001.052 or §4004.101, whether by direct act or through subagents except as otherwise provided, if either the person or the person's agent is present in this state or the offeree/purchaser or the offeree/purchaser's agent is present in this state at the time of the particular activity. A person can be an agent in more than one state at the same time.

(C) Offers and sales can be made by personal contact, mail, telegram, telephone, wireless, electronic communication, or any other form of oral or written communication.

(9) Finder--An individual who receives compensation for introducing an accredited investor to an issuer or an issuer to an accredited investor solely for the purpose of a potential investment in the securities of the issuer, but does not participate in negotiating any of the terms of an investment and does not give advice to any such parties regarding the advantages or disadvantages of entering into an investment, and conducts this activity in accordance with §115.11 of this title (relating to Finder Registration and Activities). Note that an individual registered as a finder is not permitted to register in any other capacity; however, a registered general dealer is allowed to engage in finder activity without separate registration as a finder.

(10) Texas crowdfunding portal--Any person registered as a Texas dealer pursuant to §115.19 of this title (relating to Texas Crowdfunding Portal Registration and Activities) or §115.20 of this title (relating to Texas Crowdfunding Portal Registration and Activities of Small Business Development Entities).

(b) Registration requirements of dealers, issuers, and agents, and notice filings for branch offices.

(1) Requirements of registration or notice filing.

(A) No dealer, issuer, or agent of a dealer or issuer shall sell or offer for sale any securities within this state without first being registered as a dealer or agent, or exempt from registration.

(B) Each branch office in Texas must make a notice filing to become designated as a branch office of a dealer. A registered officer, partner, or agent must be named as supervisor.

(2) Persons not required to register as an agent.

(A) Registration as an agent is not required for a person, associated with a dealer registered in Texas, who effects a transaction pursuant to the Securities Exchange Act of 1934, §15(i)(3), (15 U.S.C. Sec. 78o(i)(3)), provided such person is:

(i) not ineligible to register with this state for any reason other than such a transaction; and

(ii) registered with a registered securities association and at least one other state.

(B) For purposes of this paragraph, a person is "ineligible to register with this state," if the person:

(i) has been convicted of a securities-related felony; or

(ii) has been convicted of a theft-related felony.

(C) For purposes of this paragraph, a "registered securities association" is one currently recognized as such by the SEC pursuant to the Securities Exchange Act of 1934, §15A.

(c) Types of registrations.

(1) General registration. A general registration is a registration to deal in all categories of securities, without limitation

(2) Restricted registration. The restricted registrations are as follows:

(A) The Securities Commissioner recognizes the specialized knowledge examinations administered by FINRA as restricted registration categories. The registration of an applicant passing a specialized knowledge examination in lieu of the general securities examination pursuant to §115.3(b) of this chapter (relating to Examination) is restricted to and effective only for conducting the business and securities activities and effecting transactions associated with the specialized examination.

(B) Additional restricted registration categories include:

(i) registration to deal exclusively in the sale of interests (other than interests in limited partnerships) in oil, gas, and mining leases, fees, or titles or contracts relating thereto;

(ii) registration to deal exclusively in real estate syndication interests and/or condominium securities, including interests in real estate limited partnerships;

(iii) registration to deal exclusively in sales of securities to the dealer's own employees;

- (iv) registration for an issuer to deal exclusively in its own securities;
- (v) registration to act exclusively as a finder;
- (vi) registration to act exclusively as a Texas crowd-funding portal; and
- (vii) registration with other restrictions which the Securities Commissioner may impose based upon the facts.

(3) In restricted registrations, the evidence of registration shall indicate that the holder thereof is entitled to act as a dealer only in the specified issue or category of securities.

(d) Prohibition on fraud and availability of an exemption from registration. The Texas Securities Act prohibits fraud or fraudulent practices in dealing in any manner in any securities whether or not the person engaging in fraud or fraudulent practices is required to be registered. The Agency has jurisdiction to investigate and bring enforcement actions to the full extent authorized in the Texas Securities Act with respect to fraud or deceit, or unlawful conduct by a dealer or agent in connection with transactions involving securities in Texas. However, the registration requirements detailed in this chapter do not apply to dealers and agents that are exempt from registration as such pursuant to the Texas Securities Act, Chapter 4005, Subchapter A, or by Board rule pursuant to the Texas Securities Act, §4004.001 or §4005.024, contained in Chapter 109 or 139 of this title.

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 February 21, 2025.

TRD-202500657

Travis J. Iles

Securities Commissioner

State Securities Board

Effective date: March 13, 2025

Proposal publication date: November 8, 2024

For further information, please call: (512) 305-8303



CHAPTER 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

7 TAC §§116.1 - 116.6, 116.8, 116.9, 116.15, 116.16, 116.21

The Texas State Securities Board adopts amendments to §116.1, concerning General Provisions; §116.2, concerning Application Requirements; §116.3, concerning Examination; §116.4, concerning Evidences of Registration; §116.5, concerning Minimum Records; §116.6, concerning Registration of Persons with Criminal Backgrounds; §116.8, concerning Fee Requirements; §116.9, concerning Post-Registration Reporting Requirements; and §116.16, concerning Use of Senior-Specific Certifications and Professional Designations. The Board also adopts amendments to §116.15, concerning Advertising Restrictions, which includes renaming the caption of the section to read "Adoption by Reference of Investment Adviser Marketing Rules." Additionally, the Board adopts amendments to §116.21, concerning System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities

Act, Section 45, which also includes renaming the caption of the section to read "System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities Act, Chapter 4004, Subchapter H."

The proposals were published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8822), and corrected in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10440). The amendment to §116.3 was adopted with changes to the published proposal and will be republished. The change consisted of removing the quotations from "CIMA" in subsection (c)(2)(E) for consistency with how the professional designations in subsection (c)(2)(B) - (F) of this section are abbreviated. The amendments to §§116.1, 116.2, 116.4 - 116.6, 116.8, 116.9, 116.15, 116.16, and 116.21 were adopted without changes and will not be republished.

The rules in 7 TAC Chapter 116 govern investment advisers and investment adviser representatives. The purpose of the amendments to eleven rules in this chapter is to implement changes pursuant to the agency's periodic review of its rules. These changes improve the readability, consistency, and clarity of the rules in this chapter, and ensure the rules are current, accurate, and conform to the codified version of the Texas Securities Act (Act), which promotes transparency and efficient regulation.

The references to sections of the Act in §§116.1, 116.3, 116.4, 116.8, 116.16, and 116.21 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022, (HB 4171).

Sections 116.1 and 116.2 are amended to replace the references in those sections to the term "Securities and Exchange Commission" with the term "SEC." SEC is a defined term in §107.2, concerning Definitions.

Section 116.1 is amended to add references to "solicitor" in subsection (b) for clarification and to delete redundant language in subsection (b)(2)(D) that is also contained in §116.1(d). A reference to the Form U4 is added to subsection (b)(2)(C) for accuracy and consistency, and a reference to "notice filed" with the Securities Commissioner is added for clarity and accuracy.

Section 116.2 is also amended to replace the reference to "North American Securities Administrators Association" with the term "NASAA" in subsection (a)(1). NASAA is a defined term in §107.2, concerning Definitions. Section 116.2(a) is also amended to abbreviate Financial Industry Regulatory Authority to "FINRA," which is a defined term in §107.2, concerning Definitions. In addition, §116.3(b)(1) is amended to update the names of two NASAA examinations.

A cross reference to §116.22 is added to §116.2 to improve consistency and readability of provisions governing application requirements. Subsection (d) is amended to allow the agency registration staff the option to notify applicants by email (which is a faster and more reliable delivery method) rather than by certified mail of automatic withdrawal of applications that have been pending for more than 90 days. This change facilitates the internal processing of registration applications by reducing the use of staff resources. References to "certificate of formation" which is the name of the form used by the Texas Secretary of State for formation documents filed with it, are also added to the respective lists of formation of organization documents (including articles of incorporation, partnership agreements, articles of as-

sociation, and charters) found in §116.2(a)(2)(A), as well as in §116.5(b)(3), for clarity and to improve accuracy.

Section 116.3(b)(2) is also amended to reflect that the Form U-10 is no longer in use by FINRA. In addition, §116.3 is also amended to add new subsection (c)(3)(A) and (c)(3)(B) to recognize and grant waivers of examination or reexamination requirements for certain classes of applicants who are participating in FINRA's Maintaining Qualifications Program (MQP) or NASAA's Exam Validity Extension Program (EVEP) and meet other requirements. Section 116.3 is also amended to add subsection (c)(3)(C) to recognize and grant waivers of examination requirements for applicants who have received an examination waiver from FINRA.

The amendments to §116.3(c) provide greater coordination with other securities regulators and reduce the application processing time for eligible applicants and compliance costs for their firms. Waivers will be processed with more consistency, uniformity, and transparency.

In addition to the amendments to §116.3(c), §116.3(d) is amended to update the rule to more accurately reflect the Texas securities law examination process, and to specifically direct applicants with questions about the process to the Registration Division for information, which increases transparency. This subsection is also amended to impose a one-week waiting period to retake the examination for applicants who failed the exam to provide and encourage more time to study prior to retaking the exam.

Section 116.3 includes certain waivers from examination requirements for investment adviser applicants who have one or more of five different professional designations found in subsection (c)(2)(B) - (F). The former rule required these organizations to submit changes in their certification programs to the Securities Commissioner. The section is amended in subsection (c)(3) to remove this requirement which is no longer needed because a NASAA project group which monitors these programs has assumed this responsibility. This group, which maintains a list of eligible professional designations, has recently replaced a designation which is no longer active with a new eligible designation. In light of this change the section is also amended in subsection (c)(2)(E) to replace the reference to the inactive "CIC" designation with the new "CIMA" designation and update the reference to another designation located in subsection (c)(2)(F).

Section 116.8, which relates to fee requirements, is also amended to remove an incorrect reference in subsection (a) to fees for officers and partners of an investment adviser, to update the reference to the agency's website, and to clarify that persons seeking information on fee requirements may contact the Registration Division of the agency.

Section 116.9, which sets out events that a registered investment adviser or investment adviser representative must report to the Securities Commissioner after registration, is amended in paragraph (a)(3) to clarify that misdemeanor offense actions that are listed in §116.6(c) of this chapter must be reported. In addition, §116.9(a)(6) is amended to clarify that registered entities must notify the Commissioner of changes in legal status of their entities. These amendments apprise investment advisers and investment adviser representatives of their obligations under the Act which promotes transparency.

Section 116.15, which was last amended in 2001, prohibits investment advisers registered in Texas from using testimonials in their advertisements and includes other advertising restrictions,

mirroring (but not adopting by reference) SEC rules governing advertising that were in effect when the rule was adopted. The SEC Marketing Rule, which regulates how investment advisers registered with the SEC (SEC RIAs) may advertise their services, was amended in 2020, with a final compliance date of November 4, 2022. In addition to replacing the prior version of the SEC Marketing Rule, the SEC also rescinded the former SEC Cash Solicitation Rule (formerly found at 17 CFR §275.206(4)-3) and moved those disclosure and other regulatory requirements that also apply to persons who act as solicitors for SEC RIAs from that rescinded rule to the new SEC Marketing Rule. However, these new and updated rules for solicitation activities are less stringent and have been relaxed compared to the prohibitions and restrictions that were set forth in the former Cash Solicitation Rule.

The changes to these two SEC rules represented a broad, sweeping change in how the SEC regulates direct and indirect advertising and marketing activities, including solicitation activities, of SEC RIAs, including the SEC RIAs doing business in Texas. The SEC rules have always prohibited advertising practices that are untrue, misleading, or deceptive. The new SEC rules relax prohibitions on certain types of practices, now allowing among other things, the use of endorsements or testimonials with certain safeguards. The SEC rules also improve investor confidence and transparency by providing clearer guidelines concerning permitted marketing practices and by increasing disclosure requirements to investors.

During the rule review of Chapter 116 the agency received two comment letters from the regulated industry requesting that §116.15 be amended to remove the current advertising restrictions in the section and instead harmonize it with the more flexible new and updated SEC Marketing Rule. The staff and Board agreed with the comments. In response, this section is renamed and amended to adopt by reference the current SEC rules concerning marketing practices, while removing the existing regulatory restrictions in that section. This amendment puts advisers registered in Texas on a more level playing field with the SEC RIAs doing business in Texas because they now have the option to use testimonials and endorsements in their marketing and advertising as long as they otherwise comply with other applicable rules in Chapter 116. It also conforms rules relating to marketing practices to model rules which adopt the SEC advertising rules by reference which have been adopted by other state securities regulators. The amendment however does not change the registration requirements applicable to solicitors set forth in §116.1(b)(A).

A related adoption amends the investment adviser recordkeeping requirements in §116.5 to require investment advisers to create and keep records to verify compliance with SEC Marketing Rule requirements.

The amendments to §116.15 and §116.5 further the mission of the Board and the purposes of the Act by maximizing coordination with federal and other states' securities laws and administration by harmonizing the Board rules with SEC rules so that the same advertising rules are applicable under the Act as well as SEC rules. The amendments also further the Board's mission and Act's purposes to minimize regulatory burdens on Texas investment advisers, while ensuring that investors are adequately protected by ensuring they can make informed decisions.

Section 116.21 is also renamed to refer to the applicable section of the codified Act.

The Board received four public comment letters regarding the rulemaking in Chapter 116. One letter was from the corporate office of LPL Financial, a registered broker-dealer firm. A second letter was from 365 of LPL's financial professionals in Texas. The other two support letters were from securities industry trade groups: Investment & Wealth Institute (IWI) and the Securities Industry and Financial Markets Association (SIFMA). LPL Financial, LPL's financial professionals, and SIFMA expressed general support for the proposals, while IWI noted its specific support for the addition of the CIMA designation in §116.3 to the list of certifications granted a waiver from the examination requirements for registration as an investment adviser representative. The Board appreciates the support expressed by these commenters.

LPL Financial and SIFMA strongly supported the proposal to amend §116.3 relating to waivers from examination requirements. LPL and SIFMA both believe the proposal is important for preserving their diverse pipelines of talent, by encouraging professionals who have departed the industry to return to the sector when life circumstances permit.

The Board appreciates the support for this change.

Related to the amendment in §116.15 to adopt by reference the SEC Marketing Rule, LPL Financial noted that the "SEC's Marketing Rule provided important clarity for investment advisers when marketing their services and subsequent state adoption removes ambiguity around previous guidance for advertising services." The Board appreciates this comment on the amendment.

This concludes the description of the public comments and the Board's responses.

The amendments are adopted under the authority of the Texas Government Code (TGC), §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. In addition, the amendments to §116.3 are also adopted under the authority of TGC, §4004.151 of the Act. Section 4004.151 provides the Board with authority to waive examination requirements for any applicant or class of applicants. Finally, the amendments to §116.1 are also adopted under the authority of TGC, §4004.001 of the Act. Section 4004.001 provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule.

The adopted amendments affect the following sections of the Texas Securities Act: TGC Chapter 4004, Subchapters B - F, and H. The adopted amendments to §§116.1, 116.2, 116.4, 116.5, 116.9, 116.15, and 116.16 also affect TGC Chapter 4007, Subchapter B of the Act. The adopted amendments to §§116.1, 116.5, 116.9, 116.15, and 116.16 also affect TGC §4007.105 and §4007.106 of the Act.

§116.3. Examination.

(a) Requirement. To determine the applicant's qualifications and competency to engage in the business of rendering investment advice, the State Securities Board requires written examinations. Applicants must make a passing score on any required examination.

(b) Examinations accepted.

(1) Each applicant for registration as an investment adviser or investment adviser representative must pass:

(A) the NASAA Uniform Investment Adviser Law Examination (Series 65); or

(B) the following combination of examinations:

(i) a general securities representative examination as described in §115.3(b)(2) of this title (relating to Examination) or a limited examination as described in §115.3(b)(3) of this title; and

(ii) the NASAA Uniform Combined State Law Examination (Series 66), the Uniform Investment Advisers State Law Examination (Series, 65, as it existed and was administered on or before December 31, 1999), or an examination of the Texas Securities Act Administered by this Agency.

(2) The examinations (except the Texas Securities Act examination) listed in paragraph (1) of this subsection are administered by FINRA.

(c) Waivers of examination requirements.

(1) All persons who were registered in Texas on August 23, 1963, are not required to take any examinations.

(2) A full waiver of the examination requirements of the Texas Securities Act, §4004.151, is granted by the Board to the following classes of persons:

(A) a person who was registered as an investment adviser or investment adviser representative on or before December 31, 1999, provided the person has maintained a registration as an investment adviser or investment adviser representative with any state securities administrator that has not lapsed for more than two years from the date of the last registration;

(B) applicants who are certified by the CFA Institute, or its predecessors, the Association for Investment Management and Research, the Financial Analysts Federation, or the Institute of Chartered Financial Analysts, to be chartered financial analysts (CFA);

(C) applicants who are certified by the Certified Financial Planner Board of Standards, Inc., to use the mark "CERTIFIED FINANCIAL PLANNER" (CFP);

(D) applicants who are designated by the American Institute of Certified Public Accountants as accredited personal financial specialists (PFS);

(E) applicants who are designated by the Investment & Wealth Institute as Certified Investment Management Analysts (CIMA);

(F) applicants who are designated by the American College of Financial Services as chartered financial consultants (ChFC);

(G) a person who completed the required examinations, but whose registration has lapsed for more than two years and who has been continually employed in a securities-related position with an entity which was not required to be registered; and

(H) a person who completed the required examinations and whose registration with another state securities regulator has not lapsed for more than two years.

(3) The following classes of persons are granted a partial waiver by the Board of the examination requirements of §4004.151 of the Act and subsection (a) of this section:

(A) NASAA Exam Validity Extension Program ("EVEP"). Applicants who previously took and passed the NASAA qualification examinations accepted in subsection (b) of this section whose registration with another state securities regulator has not lapsed for more than five years who have participated in the EVEP and

have maintained compliance with the EVEP requirements are granted a waiver of the NASAA qualification examination requirements of this section.

(B) FINRA Maintaining Qualifications Program ("MQP"). Applicants whose registration with FINRA and with another state securities regulator have not lapsed for more than five years, who have participated in the MQP and maintained compliance with the MQP requirements are granted a waiver of the corresponding appropriate FINRA qualifying examinations requirement(s) in this section.

(C) FINRA Examination Waivers. Applicants who have received a waiver of any examination requirement(s) by FINRA, are granted a waiver of the corresponding examination requirement(s) in this section.

(D) Successful participation in the MQP shall not extend to the Series 65 or Series 66 for purposes of investment adviser representative registration.

(4) A partial waiver of the examination requirements of the Texas Securities Act, §4004.151, is granted by the Board to solicitor applicants. Such persons are required to pass only an examination on state securities law.

(5) The Securities Commissioner in his or her discretion is authorized by the Board to grant full or partial waivers of the examination requirements of the Texas Securities Act, §4004.151.

(d) Texas securities law examination.

(1) The fee for each filing of a request to take the Texas securities law examination is \$35. An admission letter issued by the Board is required for all entrants. The examination is given at the main office of the State Securities Board in Austin and at the Agency's branch offices.

(2) While taking the examination on the Texas Securities Act, each applicant may use an unmarked copy of the Texas Securities Act as it is printed and distributed by the State Securities Board. No other reference materials are allowed to be used by applicants during the examination.

(3) The passing score for all applicants on the examination on the Texas Securities Act is 70%. An applicant who fails the examination on the Texas Securities Act may request to retake the examination no sooner than after one week from the date of the examination. The applicant must bring his or her application up to date before retaking an examination.

(4) Disability accommodations. The Texas securities law examination shall be administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990, as amended ("ADA").

(A) Any applicant with a disability who wishes to request disability accommodations must submit to the Securities Commissioner a Form 133.3, ADA Accommodations Request Form, that has been completed and signed by the applicant and includes supporting documentation from a licensed or certified health professional appropriate for diagnosing and treating the disability, at least 60 days prior to the examination. A prior history of receiving disability accommodations, without demonstration of a current need, will not necessarily warrant approval of disability accommodations.

(B) The Securities Commissioner may request additional documentation to substantiate a request for disability accommodations.

(C) Documentation shall not be older than three years from the date of submission.

(D) All medical records provided to the Securities Commissioner are confidential under the Health Insurance Portability and Accountability Act ("HIPAA").

(E) The Securities Commissioner is not required to approve every request for disability accommodations or to provide every accommodation or service requested. The Securities Commissioner is not required to grant a request for disability accommodations if doing so would fundamentally alter the measurement of knowledge or the measurement of skill intended to be tested by the Texas securities law examination, would affect the security of the examination, or would create an undue financial or administrative burden.

(F) Once disability accommodations have been granted, they may not be altered during the examination unless prior approval of the Securities Commissioner is obtained.

(5) Information about taking the examination and how to apply to take the examination in Austin or at an Agency branch office is available on the Agency's website located at www.ssb.texas.gov or by contacting the Registration Division of the State Securities Board.

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

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Travis J. Iles

Securities Commissioner

State Securities Board

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For further information, please call: (512) 305-8303



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER BB. COMMISSIONER'S

RULES ON REPORTING REQUIREMENTS

19 TAC §61.1028

The Texas Education Agency adopts the repeal of §61.1028, concerning reporting of bus collisions. The repeal is adopted without changes to the proposed text as published in the December 6, 2024 issue of the *Texas Register* (49 TexReg 9863) and will not be republished. The adopted repeal relocates the existing requirements to proposed new 19 TAC §103.1231. The adopted new rule includes an update to remove the requirement related to the color of a multifunction school activity bus to align with statute.

REASONED JUSTIFICATION: Section 61.1028 requires school districts and open-enrollment charter schools to report bus collisions. The adopted repeal of §61.1028 moves the existing language to proposed new §103.1231. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

Adopted new §103.1231 has been updated to align the definition of "multifunction school activity bus" with Texas Transportation Code, §541.201, by removing the requirement related to color.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 6, 2024, and ended January 6, 2025. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code, §34.015, which requires school districts to annually report to the Texas Education Agency the number of collisions in which the district's buses are involved. The agency is required to adopt rules determining the information to be reported.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §34.015.

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 February 18, 2025.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



CHAPTER 103. HEALTH AND SAFETY SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1231

The Texas Education Agency adopts new §103.1231, concerning reporting of bus collisions. The new section is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9862) and will not be republished. The adopted new section relocates existing requirements from 19 TAC §61.1028. The new section includes an update to remove the requirement related to the color of a multifunction school activity bus to align with statute.

REASONED JUSTIFICATION: Adopted new §103.1231 moves existing language from 19 TAC §61.1028, which requires school districts and open-enrollment charter schools to report bus collisions. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

Proposed new §103.1231 includes an update from the existing rule to align the definition of "multifunction school activity bus" with Texas Transportation Code, §541.201, by removing the requirement related to color.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 6, 2024, and ended January 6, 2025. No public comments were received.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code, §34.015, which requires school districts to annually report to the Texas Education Agency the number of collisions in which the district's buses are involved. The agency is required to adopt rules determining the information to be reported.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §34.015.

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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Texas Education Agency

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PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 228. REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS

The State Board for Educator Certification (SBEC) adopts amendments to 19 Texas Administrative Code (TAC) §§228.2, 228.6, 228.33, 228.67, 228.73, and 228.103, concerning requirements for educator preparation programs (EPPs). The amendments are adopted without changes to the proposed text as published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8457) and will not be republished. The adopted amendments would further clarify requirements and definitions as applicable to support EPPs and candidates in the successful implementation of these rules.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 228, Requirements for Educator Preparation Programs, establish the requirements for EPPs in the preparation of candidates for Texas educator certification.

As a follow-up to the July 2024 SBEC meeting discussion on proposed changes to the new Chapter 228 rules, Texas Education Agency (TEA) staff completed additional work on draft proposed rule changes and conducted a stakeholder meeting on August 9, 2024. The information from the August stakeholder meeting informed the final version of proposed rules to be presented for the Board's review and action at the September SBEC meeting.

The following is a description of the adopted amendments to Chapter 228.

Subchapter A. General Guidance

§228.2. Definitions.

The adopted new definition of *extracurricular activities* mirrors the language of the definition of this term established in 19 TAC Chapter 76, Extracurricular Activities, Subchapter AA, Commissioner's Rules. In addition, defining the term in this manner pro-

vides EPPs and candidates with additional clarity and support around the types of activities that should be considered acceptable to meet preparation program requirements.

The adopted new definition of *Legacy Chapter 228* rules provides a reference to the EPP rules that were in effect on August 31, 2024, and ensures that EPPs and candidates have a place to anchor their use of those rules as they support candidates who began their preparation prior to September 1, 2024, through the rest of the preparation and certification process.

The adopted amendment to the definition of *school day* acknowledges that school days may be extended for some subject areas that have duties outside of the regular school day and strikes the reference to clinical teaching and allows guidance on meeting those requirements to be addressed in §228.67, Clinical Teaching.

Some definitions in this section are renumbered due to the addition of two new definitions in adopted §228.2(26) and §228.2(37).

§228.6. Implementation Date.

The adopted amendment to §228.6, Implementation Date, creates new paragraphs (1) and (2) to more formally codify the implementation structures understood in the field. These additions to the rules provide clarification and consistency to support EPPs with candidates admitted prior to September 1, 2024.

Adopted new §228.6(1)(A) reinforces the expectation for candidates who have not started their clinical experience prior to September 1, 2024, to comply with the current rules in Chapter 228, Subchapter E, Educator Candidate Experiences.

Adopted new §228.6(1)(B) establishes a clear deadline to ensure that EPPs and candidates completing requirements under the Legacy Chapter 228 rules do so by August 31, 2026.

Adopted new §228.6(2) reinforces for EPPs and candidates that anyone admitted into an EPP on or after September 1, 2024, is subject to all requirements in this chapter.

Subchapter D. Required Educator Coursework and Training

§228.33. Preparation Program Coursework and/or Training for All Certification Classes.

A technical edit to §228.33(d)(3) strikes the outdated rule reference that was repealed in February 2024 and replaces it with an updated reference to the alternative rules, Part 1, Chapter 2, Subchapter J, Rule §2.204 (relating to Approval of Distance Education Courses and Programs for Public Institutions).

Subchapter E. Educator Candidate Experiences

§228.67. Clinical Teaching.

A technical edit to §228.67(a) changes the introductory rule text from "A candidate for initial certification" to "A candidate seeking initial certification" for clarity.

The adopted amendment to §228.67(b)(1) changes the time spent in the subject area of the certificate sought from 4 hours per day to a total of 280 hours across the clinical teaching experience and provides flexibility for candidates to complete the remaining 210 clinical teaching hours in other aspects of an educator's duties.

The adopted amendment to §228.67(b)(3) adds "medical" and strikes "illness" to more broadly represent things that could impact a candidate's ability to complete the required total number of clinical teaching hours.

The adopted amendment to §228.67(c) changes the time spent in the subject area of an additional certificate area sought by the candidate that cannot be taught concurrently with the primary certificate area sought from 5 hours per week to a total of 70 hours during the clinical teaching experience, providing flexibility to candidates and EPPs to structure the clinical teaching experience as needed and still comply with requirements.

§228.73. Internship.

The adopted amendment to §228.73(h) further clarifies that subsection (g)(2)-(6) outlines the applicable options under which an EPP should cease with providing additional support to a candidate and proceed with the required steps to deactivate the candidate's intern or probationary certificate.

Subchapter F. Support for Candidates During Required Clinical Experiences

§228.103. Formal Observations for Candidates in Residency Assignments.

The adopted change to §228.103(a) clarifies that an EPP must provide the first formal observation with the first six weeks of all residency assignments. This change restores the original intent of the requirements for formal observations specific to candidates in residency assignments.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 18, 2024, and ended November 18, 2024. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the December 6, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comments were received on the proposal.

Comment: One commenter from an EPP recommended that the SBEC adopt the revisions to include definitions for "extracurricular" and "school day."

Response: The SBEC agrees.

Comment: A Texas administrator requested that Texas principal candidates not be required to take both the 368 Performance Assessment for School Leaders (PASL) and the 268 examination. The commenter stated that the video requirement component of the 368 PASL can be an insincere exercise for administrators who may work in a central administrative role, and that this component should not be a requirement to gain principal certification. The commenter noted that only one test is required for superintendent certification and recommended a similar pathway for principals.

Response: This comment is outside the scope of the rulemaking. TEA staff contacted this commenter directly and positively resolved the commenter's concerns specific to the transfer of out-of-state certification to Texas.

The State Board of Education (SBOE) took no action on the review of the amendments to §§228.2, 228.6, 228.33, 228.67, 228.73, and 228.103 at the January 31, 2025 SBOE meeting.

SUBCHAPTER A. GENERAL GUIDANCE

19 TAC §228.2, §228.6

STATUTORY AUTHORITY. The amendments are adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator,

educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along

with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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State Board for Educator Certification
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**SUBCHAPTER D. REQUIRED EDUCATOR
COURSEWORK AND TRAINING**

19 TAC §228.33

STATUTORY AUTHORITY. The amendment is adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in

conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b)

and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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 February 19, 2025.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 748-5051



SUBCHAPTER E. EDUCATOR CANDIDATE CLINICAL EXPERIENCES

19 TAC §228.67, §228.73

STATUTORY AUTHORITY. The amendments are adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the

results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse

student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 748-5051



SUBCHAPTER F. SUPPORT FOR CANDIDATES DURING REQUIRED CLINICAL EXPERIENCES

19 TAC §228.103

STATUTORY AUTHORITY. The amendment is adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets

requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for

teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 748-5051



CHAPTER 234. MILITARY SERVICE MEMBERS, MILITARY SPOUSES, AND MILITARY VETERANS

19 TAC §§234.1, 234.3, 234.5, 234.7

The State Board for Educator Certification (SBEC) adopts amendments to 19 Texas Administrative Code (TAC) §§234.1, 234.3, 234.5, and 234.7, concerning military service members, military spouses, and military veterans. The amendments are adopted without changes to the proposed text as published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8465) and will not be republished. The amendments add language specific to the Servicemembers Civil Relief Act (SCRA), allowing the portability of licenses for active-duty military service members or the spouse of a military service member, and provide technical edits to clarify existing language, alphabetize

definitions, and remove duplicative language where necessary. The amendments expand the number of individuals eligible to become certified educators in Texas.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 234 consolidate all military-related provisions into one chapter for all members of the military community (i.e., military service members, military spouses, and military veterans) and related individuals subject to these provisions through statute (military veterans, peace officers, fire protection personnel, emergency medical services personnel, and qualified instructors for the Community College of the Air Force).

At the July 2024 SBEC meeting, Texas Education Agency (TEA) staff provided SBEC with an overview of the provisions of the chapter as well as proposed technical edits to alphabetize, re-number, and strike duplicative information. TEA staff also discussed the addition of language added to the SCRA by the U.S. Congress to allow service members and the spouses of military service members to use their professional licenses and certificates when they relocate due to military orders.

The following is a description of the adopted amendments.

§234.1. *Purpose.*

The adopted amendment to 19 TAC §234.1 incorporates technical edits and adds new subsection (c) related to the SCRA to incorporate the federally mandated Veterans Auto and Education Improvement Act of 2022 (H.R. 7939), which allows a military service member or the spouse of a military service member to use their license and certificates in certain circumstances when they relocate to another state due to military orders.

§234.3. *Definitions.*

The adopted amendment to 19 TAC §234.3 alphabetizes and re-numbers definitions relevant to effective implementation of this chapter.

§234.5. *Certification of Military Service Members, Military Spouses, and Military Veterans.*

The adopted amendment to 19 TAC §234.5 makes the following technical edits for clarification: in subsection (b), adds the phrase "Following completion of the review of credentials,"; strikes the phrase "As soon as practicable after the issuance of a one-year certificate"; strikes the phrase "in writing or by email" to more accurately reflect the current process of placing the results of an educator's credentials review in his or her online certification account for access and review; adds text to include the temporary certificate; and strikes subsection (c) because it is duplicative and re-letters the subsequent subsections.

§234.7. *Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.*

The adopted amendment to 19 TAC §234.7 strikes subsection (d) since there is not a time limit imposed on any individual related to certificate renewal.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 18, 2024, and ended November 18, 2024. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the December 6, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures. No public comments were received on the proposal.

The State Board of Education (SBOE) took no action on the review of the amendments to §§234.1, 234.3, 234.5, and 234.7 at the January 31, 2025 SBOE meeting.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to adopt rules that specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), which requires the SBEC to adopt rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.0444, which requires the SBEC to adopt rules for issuing a temporary certification to teach career and technology education for certain military service members and first responders; TEC, §21.052(b-1), which requires the SBEC to adopt rules to establish procedures to establish residency and expedite processing of certification applications submitted by a military veteran or military spouse; TEC, §21.052(c), which states the SBEC can specify the term of a temporary certificate issued under this subsection; TEC, §21.052(d-1), which requires the SBEC to issue a three-year temporary certificate to eligible military spouses of active-duty service members; TEC, §21.052(f), which requires the SBEC to maintain an Internet website that outlines the procedures for military community members to obtain certification in Texas; TEC, §21.052(i), which defines active-duty service, lists the branches of the United States armed forces, and confirms the members of the military community eligible for processes established to certify educators from outside the state; TEC, §21.0525, which requires the SBEC to adopt rules for issuing a temporary teaching certificate for certain persons with experience as instructors for the Community College of the Air Force; TEC, §21.054, which requires the SBEC to adopt rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements; and TEC, §21.458(a-2), which specifies that a school district shall assign a mentor teacher to a classroom teacher who has been issued a temporary certificate to teach career and technology education under TEC, §21.0444, for at least two years; and Texas Occupations Code (TOC), §55.001, which defines key terms and identifies the individuals relevant to the processing and support of members of the military community; TOC, §55.002, which provides clarification and guidelines for implementing fee exemptions for members of the military community; TOC, §55.003, which states military service members are eligible to receive a two-year extension of time to complete requirements for license renewal; TOC, §55.004(a)-(c), which requires state agencies to adopt rules for issuance of licensure to members of the military community and provides alternatives to become eligible for licensure; TOC, §55.004(d), which requires state agencies to adopt rules to allow military service members to use the same options as military spouses to meet the residency and other state-specific requirements for licensure; TOC, §55.0041, which requires state agencies to establish a process to identify jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state and to verify that the member or spouse is licensed in good standing in such a jurisdiction; TOC, §55.005(a), which requires a state agency that issues a license must do so no later than 30 days following the date that a military service member, military veteran, or military spouse applies for licensure; TOC, §55.006, which requires state agencies to determine renewal

requirements for expedited licenses issued to members of the military community; TOC, §55.007, which provides state agencies authority to credit verified military service, training, or education toward licensing requirements; TOC, §55.008, which authorizes state agencies to credit verified relevant military service, training, or education relevant to the occupation toward the apprenticeship requirements for licensure; TOC, §55.009, which confirms state agencies that issue licensure shall waive license application and examination fees paid to the state for applicable members of the military community; and TOC, §55.010, which requires state agencies to prominently post notification of licensure provisions for military service members, military veterans, and military spouses on the home page of the agency's website.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.041(b)(2) and (4); 21.044(a); 21.0444, 21.052(b-1), (c), (d-1), (f), and (i); 21.0525, 21.054; and 21.458(a-2), and Texas Occupations Code, §§55.001; 55.002; 55.003; 55.004(a)-(c); 55.004(d), 55.0041, 55.005(a), 55.006; 55.007; 55.008; 55.009; and 55.010.

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 February 19, 2025.

TRD-202500642

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Effective date: March 11, 2025

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For further information, please call: (512) 748-5051

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 102. FEES

22 TAC §102.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §102.1, concerning fees without changes to the proposal as published in the December 13, 2024, issue of the *Texas Register* (49 TexReg 10094) and will not be re-published. The adopted amendment includes a \$100.00 fee for applicants who apply to become a Board approved continuing education course provider.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and Texas Occupations Code §254.004, which directs the Board to establish reasonable and necessary fees sufficient to cover the cost of administering the Board's duties.

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 February 21, 2025.

TRD-202500667
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: March 13, 2025
Proposal publication date: December 13, 2024
For further information, please call: (737) 363-2333



CHAPTER 108. PROFESSIONAL CONDUCT SUBCHAPTER D. MOBILE DENTAL FACILITIES

22 TAC §108.42

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.42, concerning obtaining a permit. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9866) and will not be republished. The adopted amendment removes the requirement that a mobile dental facility or portable dental unit must have a lead apron with thyroid shield when x-rays are made. The American Academy of Oral and Maxillofacial Radiology (AAOMR) recently issued guidelines titled "Patient shielding during dentomaxillofacial radiography" where the AAOMR recommended discontinuing the use of lead aprons and thyroid shields when making x-rays. The Board held a stakeholder meeting on September 27, 2024, where a majority of stakeholders stated that Board rules should be amended to remove requiring the use of lead aprons and thyroid shields based on the AAOMR guidelines.

The Texas Academy of General Dentistry (TAGD) provided a written comment in support of adoption of the rule as proposed. TAGD states that the amendment aligns with current research and best practices by organizations, including the AAOMR. The Board agrees with the comment, and no changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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 February 21, 2025.

TRD-202500668

Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: March 13, 2025
Proposal publication date: December 6, 2024
For further information, please call: (737) 363-2333



CHAPTER 111. STANDARDS FOR PRESCRIBING CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

22 TAC §111.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §111.1, concerning additional continuing education requirements. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9867) and will not be republished. The adopted amendment removes subsections (a) and (b)(1) because they are no longer in effect. The current continuing education requirement regarding controlled substances is found in paragraph (1) of this amended rule and in 22 TAC §104.1(2)(B). The adopted amendment also updates the name of the title for 22 TAC §104.1.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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 February 21, 2025.

TRD-202500669
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: March 13, 2025
Proposal publication date: December 6, 2024
For further information, please call: (737) 363-2333



CHAPTER 113. REQUIREMENTS FOR DENTAL OFFICES

22 TAC §113.2

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §113.2, concerning x-ray laboratories. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9868) and will not be republished. The adopted amendment removes the requirement that dental patients must be protected by a lead apron with thyroid collar. The American Academy of Oral and Maxillofacial Radiology (AAOMR) recently issued guidelines titled "Patient shielding

during dentomaxillofacial radiography" where the AAOMR recommended discontinuing the use of lead aprons and thyroid shields when making x-rays. The Board held a stakeholder meeting on September 27, 2024, where a majority of stakeholders stated that Board rules should be amended to remove requiring the use of lead aprons and thyroid shields based on the AAOMR guidelines.

The Texas Academy of General Dentistry (TAGD) provided a written comment in support of adoption of the rule as proposed. TAGD states that the amendment aligns with current research and best practices by organizations, including the AAOMR. The Board agrees with this comment, and no changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

Legal counsel for the Board has reviewed the adopted rule and has found it to be within the Board's authority to adopt.

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

Filed with the Office of the Secretary of State on February 21, 2025.

TRD-202500670

Lauren Studdard

General Counsel

State Board of Dental Examiners

Effective date: March 13, 2025

Proposal publication date: December 6, 2024

For further information, please call: (737) 363-2333



CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.12

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §114.12, concerning continuing education for registered dental assistants. The amendment is adopted with changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9869) and will be republished. The adopted amendment updates the rule to reflect that dental assistant registrations have a biennial renewal cycle.

At its February 21, 2025 meeting, the Board voted not to adopt the portion of the proposed amendment that would require registered dental assistants to complete two hours of continuing education in the laws and regulations of the Board. The Board agreed with stakeholders that the requirement could create barriers for registered dental assistants. Instead, the Board tasked staff to look into whether the renewal application for registered dental assistants can include an attestation that they have read the laws and regulations of the Board.

The Texas Academy of General Dentistry (TAGD) provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. TAGD states that ultimately it is the dentist's responsibility to ensure that office operations comply with state laws and regulations. TAGD believes dental assistants' continuing education hours would be better utilized on topics that enhance their clinical skills and support their daily responsibilities. The Board believes the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

LaNisha Eskridge, RDA, provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. Ms. Eskridge states that the amendment would create a financial burden for registered dental assistants, who are the lowest paid members of the dental team. She states the amendment would add to the shortage of dental assistants by requiring additional regulations and may cause dental assistants to leave the field or not consider becoming a dental assistant. She also states that the amendment would not allow dental assistants to renew or retain their registration if the jurisprudence assessment is not passed. The Board agrees the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

The Texas Dental Assistants Association (TDAA) provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. TDAA states the amendment would essentially quadruple the CE requirement of jurisprudence for dental assistants in comparison to dentists and hygienists, who take the jurisprudence assessment every four years. The financial burden would be more for the RDA, who is the lowest paid member of the dental team. TDAA also states that the amendment could create possible job loss if a dental assistant confronts an employer on a delegated duty in question, and exacerbate the shortage of dental assistants by adding additional requirements. There is a limited availability of dental assistant CE courses in jurisprudence, and the Board should maintain control over any material aimed at educating the dental assistant in matters of Texas laws or Board rules and regulations, as it does for dentists and hygienists with the jurisprudence assessment. The Board agrees the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§114.12. *Continuing Education for Certificate Holders.*

(a) To renew a certificate of registration issued under this chapter, a dental assistant must complete twelve (12) hours of continuing education biennially in areas covering dental assistant duties. At least six (6) of these twelve (12) hours must be clinical continuing education.

(b) A dental assistant may fulfill the continuing education requirement through board-approved self-study, interactive computer

courses, or lecture courses. All continuing education must be offered by providers approved under 22 Texas Administrative Code §104.2.

(c) As a prerequisite to the renewal of a dental assistant's certificate of registration, a course in human trafficking prevention approved by the executive commissioner of the Texas Health and Human Services Commission must be completed.

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 February 21, 2025.

TRD-202500671
Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: March 13, 2025
Proposal publication date: December 6, 2024
For further information, please call: (737) 363-2333



PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 133. LICENSING FOR ENGINEERS

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts amendments without changes to 22 Texas Administrative Code, Chapter 133, regarding Licensing for Engineers, specifically §§133.11, Types of Licenses; 133.26, Applications for Texas Licensure by License Holders in Another Jurisdiction; and 133.69, Waiver of Examinations. The amendments were originally published in the January 3, 2025, issue of the *Texas Register* (50 TexReg 19) and will not be republished.

REASONED JUSTIFICATION FOR RULE ADOPTION

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

The adopted rules amend §133.11 to clarify which rules relate to standard and temporary licenses and amend §133.69 to clarify the duration of time a reciprocal applicant must be licensed in the other jurisdiction prior to requesting a waiver of the PE examination.

The adopted rules create a new section §133.26 that sets out the streamlined requirements for applicants from international and US jurisdictions (states or territories) that are currently licensed in those jurisdictions.

PUBLIC COMMENTS

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to

provide oral and/or written commentary concerning the adoption of the rules. The 30-day public comment period began on January 3, 2025, and ended February 2, 2025. The Board received no comments from the public.

SUBCHAPTER B. PROFESSIONAL ENGINEER LICENSES

22 TAC §133.11

STATUTORY AUTHORITY

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

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 February 18, 2025.

TRD-202500598
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: March 10, 2025
Proposal publication date: January 3, 2025
For further information, please call: (512) 440-7723



SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §133.26

STATUTORY AUTHORITY

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

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 February 18, 2025.

TRD-202500599

Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: March 10, 2025
Proposal publication date: January 3, 2025
For further information, please call: (512) 440-7723



SUBCHAPTER G. EXAMINATIONS

22 TAC §133.69

STATUTORY AUTHORITY

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

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 February 18, 2025.

TRD-202500600
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: March 10, 2025
Proposal publication date: January 3, 2025
For further information, please call: (512) 440-7723



TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.13, §703.26

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts the amendments to 25 Texas Administrative Code §703.13 and §703.26 without changes to the proposed amendments as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9888); therefore, the rules will not be republished.

Reasoned Justification

The amendment to § 703.13(b) increases the grant recipient audit threshold from \$750,000 to \$1 million. The amendment harmonizes CPRIT's administrative rules with recent changes to the Texas Grant Management Standards (TxGMS) published by the Comptroller of Public Accounts.

The amendment to § 703.26(e) adds the following as an allowable expense for grant recipients, "Reimbursements to em-

ployees for their out-of-pocket health insurance premium or other health care expenses which are not made through an employer-sponsored plan established under Section 105 of the Internal Revenue Code." For these expenses to be considered fringe benefits that are reimbursable from CPRIT grant funds, the employer must have an established health reimbursement arrangement program under Section 105 of the Internal Revenue Code. Thus, this amendment clarifies that CPRIT program standards for reimbursements conform to other relevant laws.

Lastly, the non-substantive, technical amendment to § 703.26(b) replaces an outdated reference to the Uniform Grant Management Standards (UGMS) with a reference to TxGMS.

Summary of Public Comments and Staff Recommendation

CPRIT received no public comments regarding the proposed amendments to §§ 703.13 and 703.26. CPRIT staff recommends moving forward with adoption of the amendments.

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, § 102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

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 February 20, 2025.

TRD-202500647
Heidi McConnell
Deputy Executive Officer / Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Effective date: March 12, 2025
Proposal publication date: December 6, 2024
For further information, please call: (512) 463-3190



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING

SUBCHAPTER C. OPERATIONS THAT ARE EXEMPT FROM REGULATION

DIVISION 2. EXEMPTIONS FROM REGULATION

26 TAC §745.117

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §745.117, concerning Exemptions for Programs of Limited Duration.

The amendment to §745.117 is adopted with changes to the proposed text as published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8542). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to implement Section 115 of House Bill (H.B.) 4559, 88th Legislature, Regular Session,

2023. This section of H.B. 4559 amended a requirement in Texas Human Resources Code (HRC) §42.041, which identifies certain programs that meet the definition of "child-care facility" in HRC §42.002(3) that are exempt from requiring a license under HRC Chapter 42. HRC §42.041(b)(3) includes an exemption for a program that provides short-term child care that meets certain requirements in connection with a shopping center, business or other activity. In turn, HRC §42.041(g) limits the number of hours a week that a certain type of program that meets this exemption language may operate. H.B. 4559 amended the requirements in HRC Section 42.041(g). Prior to the effective date of H.B. 4559, HRC Section 42.041(g) limited a program exempt under HRC Section 42.041(b)(3) to providing a maximum of 15 hours per week of childcare to an individual child if the program (1) provides child-care so that a person may attend an educational class provided by a nonprofit entity and (2) is located in a county that has a population of 800,000 and on an international border. H.B. 4559 amended the population requirement so that the limits in subsection (g) apply if the program is located in a county with a municipality with a population of at least 500,000. Accordingly, HHSC Child Care Regulation (CCR) is adopting amended §745.117 to reflect the amended statutory language.

COMMENTS

The 31-day comment period ended November 25, 2024. During this period, HHSC received one comment regarding the proposed rule from one commenter representing a licensed child-care center, Tomorrow's Promise Montessori Schools. A summary of the comment relating to the rule and the response from HHSC follows.

Comment: Regarding §745.117, one commenter stated the Boys and Girls Clubs, public schools, and charter schools that offer after-school programs and summer camps, and Mother's Day Out programs should be held to the same standards as licensed child-care programs. The commenter specifically mentioned standards related to screen time, supervision, background checks, and health and safety.

Response: HHSC appreciates the comment but declines to revise the rule. This comment is unrelated to the subject of the amendment that HHSC proposed in this packet, which is to make rule language consistent with statutory language that relates specifically to the exemption codified in HRC §42.041(b)(3). The program types referenced in this comment are either subject to regulation (for example, an after-school program at a public school is subject to regulation under Chapter 744, Minimum Standards for School-Age and Before or After-School Programs) or relate to a different exemption in HRC §42.041(b).

In addition, HHSC made minor editorial changes to the rule title at §745.117 to replace the question format with a statement and clarify wording.

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, and 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 §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

§745.117. *Programs of Limited Duration Exempt from Regulation by Child Care Regulation (CCR).*

The following programs of limited-duration are exempt from CCR regulation:

Figure: 26 TAC §745.117

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 February 18, 2025.

TRD-202500589

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: March 10, 2025

Proposal publication date: October 25, 2024

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.1

The Texas Board of Criminal Justice (board) adopts amendments to §159.1, concerning Substance Abuse Felony Punishment Facilities Eligibility Criteria, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10493). The rule will not be republished. The adopted amendments remove reference to an outdated document, update the title of a referenced document, and revise language to align with current verbiage and clarify eligibility requirements.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; §493.009, which establishes guidelines for substance abuse felony punishment facilities, and Texas Code of Criminal Procedure art. 42A.303, which establishes guidelines for a substance abuse felony program.

Cross Reference to Statutes: None.

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 February 21, 2025.

TRD-202500662

Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: March 13, 2025
Proposal publication date: December 27, 2024
For further information, please call: (936) 437-6700



CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.21

The Texas Board of Criminal Justice (board) adopts amendments to §163.21, concerning Administration, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10494). The rule will not be republished. The adopted amendments revise "continuum of sanctions" to "progressive sanctions" throughout; remove the *Human Resources* category from the policies and procedures that shall be included in the administrative manual maintained by the Community Supervision and Corrections Department (CSCD) director; revise the *Standards* category of the administrative manual; revise language referencing an application process to specify a proposal; add language to state documentation of training hours shall be maintained at the CSCD and available on request; and make grammatical and formatting updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

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 February 21, 2025.

TRD-202500663
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: March 13, 2025
Proposal publication date: December 27, 2024
For further information, please call: (936) 437-6700



37 TAC §163.35

The Texas Board of Criminal Justice (board) adopts amendments to §163.35, concerning Supervision, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10500). The rule will not be republished. The adopted amendments revise "rule" to "section" throughout; revise the definition of "direct supervision"; and make grammatical and formatting updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

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 February 21, 2025.

TRD-202500664
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: March 13, 2025
Proposal publication date: December 27, 2024
For further information, please call: (936) 437-6700



37 TAC §163.41

The Texas Board of Criminal Justice (board) adopts amendments to §163.41, concerning Medical and Psychological Information, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10502). The rule will not be republished. The adopted amendments update the reference to model policy guidelines with the corresponding Texas Health and Safety Code and remove the website address.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

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 February 21, 2025.

TRD-202500665
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: March 13, 2025
Proposal publication date: December 27, 2024
For further information, please call: (936) 437-6700



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 452. ADMINISTRATION GENERAL PROVISIONS

40 TAC §452.2

The Texas Veterans Commission ("Commission") adopts amendment to rule Title 40 of the Texas Administrative Code, Part 15, Chapter 452, Administration General Provisions, §452.2, Advisory Committees. The amendment is adopted without changes to the text as published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9735) and will not be republished.

The adopted amendment updates the rule to remove references to the following advisory committees, which the Commissioners voted to abolish at the last Commission meeting: the Veteran Services Advisory Committee and the Veterans County Service Officer Advisory Committee.

The Commission received no comments regarding the proposed new rules.

The amendment of the rule is authorized under Texas Government Code §434.010, granting the Commission the authority to establish rules, and Texas Government Code §434.017, granting the Commission the authority to establish rules governing the award of grants by the Commission.

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

Filed with the Office of the Secretary of State on February 19, 2025.

TRD-202500644
Kirstin Erickson
General Counsel
Texas Veterans Commission
Effective date: March 11, 2025
Proposal publication date: November 29, 2024
For further information, please call: (512) 463-0663



40 TAC §452.9, §452.10

The Texas Veterans Commission ("Commission") adopts two new rules in Chapter 452 of Title 40, Part 15 of the Texas Administrative Code, §452.9 and §452.10. These new sections are adopted without changes to the proposed text as published in the November 29, 2024, issue of the *Texas Register* at (49 TexReg 9737) and will not be republished.

The first adopted new rule describes how the agency's employee sick leave pool is administered in accordance with Texas Government Code Chapter 661. The new rule complies with Texas Government Code §661.002(c), which requires state agencies to adopt rules and prescribe procedures for administering the agency's employee sick leave pool.

The second adopted new rule establishes procedures for administering the agency's family leave pool in accordance with Texas

Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures for operating the family leave pool.

The Commission received no public comments regarding the proposed new rules.

The rules are authorized under Texas Government Code §434.010, granting the commission the authority to establish rules; Texas Government Code §661.002(c), which requires state agencies to adopt rules and prescribe procedures relating to the administration of the agency's sick leave pool; and Texas Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures relating to the operation of a family leave pool.

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 February 19, 2025.

TRD-202500645
Kirstin Erickson
General Counsel
Texas Veterans Commission
Effective date: March 11, 2025
Proposal publication date: November 29, 2024
For further information, please call: (512) 463-0663



CHAPTER 463. VETERAN VERIFICATION LETTER

40 TAC §§463.1 - 463.4

The Texas Veterans Commission ("Commission") adopts the repeal of Title 40, Texas Administrative Code, Part 15, Chapter 463, relating to the Veteran Verification Letter. This repeal is adopted without changes to the proposed text as published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9739) and will not be republished.

The adopted repeal is to remove a rule that is not required by statute. The requirements contained in the rule may instead be outlined in Texas Veterans Commission procedures.

The Commission received no public comments regarding the proposed new rules.

The rule repeal is adopted under Texas Government Code §434.010 which authorizes the commission to establish rules it considers necessary for its administration. No other statutes, articles, or codes are affected by this proposal.

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 February 19, 2025.

TRD-202500643

Kirstin Erickson
General Counsel
Texas Veterans Commission
Effective date: March 11, 2025
Proposal publication date: November 29, 2024
For further information, please call: (512) 463-0663



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 Appraiser Licensing and Certification Board

Title 22, Part 8

The Texas Appraiser Licensing and Certification Board (TALCB) files this notice of intention to review 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act. This review is undertaken pursuant to Government Code, §2001.039.

During the review process, TALCB may determine whether a specific rule requires amendments to refine TALCB's legal and policy considerations; whether the rules reflect current TALCB procedures; that no changes to a rule as currently in effect are necessary; or that a rule is no longer valid or applicable. Rules may also be combined or reduced for simplification and clarity when feasible. Any proposed amendments or repeal of a rule or chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period before final adoption or repeal. Final consideration of this rules review is expected at the TALCB meeting in August 2025.

Any questions or comments pertaining to this notice of intention to review should be directed to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov within 30 days of publication.

TRD-202500712

Kathleen Santos

General Counsel

Texas Appraiser Licensing and Certification Board

Filed: February 25, 2025



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re Adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 902, Continuity of Services--Transferring Individuals from State Supported Living Centers to State Hospitals

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 902, Continuity of Services--Transferring Individuals from State Supported Living Centers to State Hospitals, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 902" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202500666

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: February 21, 2025



Texas Department of Family and Protective Services

Title 40, Part 19

The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 700, Child Protective Services.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 700 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500736
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 702, General Administration.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 702 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500735
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 704, Prevention and Early Intervention Services.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m.

of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 704 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500734
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 705, Adult Protective Services.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 705 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500729
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 707, Child Protective Investigations.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule con-

tinue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 707 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500730
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 730, Legal Services.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 730 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500731
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 732, Contracted Services.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 732 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500732
Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025



The Texas Department of Family and Protective Services (DFPS), files this notice of intent to review, in its entirety, the rules in 40 Texas Administrative Code, Title 40, Part 19, Chapter 735, Independent Court-Ordered Adoption Evaluations.

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. DFPS 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 DFPS procedures.

Written comments on this notice may be submitted by mail to Office of General Counsel, Texas Department of Family and Protective Services, P.O. Box 149030, Austin, Texas 78714, or by email to Rules@dfps.texas.gov. Comments will be accepted until 5:00 p.m. of the 31st day following publication in the *Texas Register*. Include "Comments on Chapter 735 Rule Review" in the subject line of any comments submitted.

The text of the chapter being reviewed will not be published, but may be found in Title 40, Part 19, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Should DFPS determine that amendments or repeals to these rules are warranted, a separate rulemaking process with opportunity for public comment will be initiated in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-202500733

Sanjuanita Maltos
Legal Rules Coordinator
Department of Family and Protective Services
Filed: February 26, 2025

◆ ◆ ◆
Adopted Rule Reviews

State Board of Dental Examiners

Title 22, Part 5

The Texas State Board of Dental Examiners (Board) adopts the review of the chapters below in Title 22, Part 5, of the Texas Administrative Code (TAC):

Chapter 108, Professional Conduct; and

Chapter 112, Visual Dental Health Inspections.

Notice of the review of these chapters was published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 10009). No comments were received in response to this notice.

The Board has reviewed Chapters 108 and 112 in accordance with Texas Government Code §2001.039, which requires state agencies to

assess, every four years, whether the original reasons for adopting a rule continue to exist.

The Board determined that the initial reasons for adopting rules in the chapters continue to exist and readopts Chapters 108 and 112 except for:

§108.8, Records of the Dentist; and

§108.52, Names and Responsibilities. The Board finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments identified by the Board to Chapter 108 will be proposed in a future issue of the *Texas Register*.

This concludes the Board's review of 22 TAC Chapters 108 and 112 as required by the Texas Government Code §2001.039.

TRD-202500672
Lauren Studdard
General Counsel
State Board of Dental Examiners
Filed: February 21, 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: 25 TAC §289.230(e)(50)[~~Figure: 25 TAC §289.230(c)(51)~~]

$$OD = \log_{10} \frac{l_o}{l_t}$$

where l_o = light intensity incident on the film and
 l_t = light transmitted through the film.

Figure: 25 TAC §289.230(i)(11)(B)

Table I		
<u>X-ray Tube Voltage in kV (kilovolt peak) and Minimum HVL</u>		
<u>Designed Operating Range (kV)</u>	<u>Measured Operating Voltage (kV)</u>	<u>Minimum HVL (millimeter of aluminum)</u>
<u>Below 50</u>	<u>20</u>	<u>0.20</u>
<u>Below 50</u>	<u>25</u>	<u>0.25</u>
<u>Below 50</u>	<u>30</u>	<u>0.30</u>

Figure: 25 TAC §289.230(x)(3)

<u>Specific Subsection</u>	<u>Name of Record</u>	<u>Time Interval for Record Keeping</u>
<u>(h)(1)(A)</u>	<u>Interpreting Physician Qualifications</u>	<u>Until 2 years after terminating certification or 2 years after the physician becomes inactive at the facility</u>
<u>(h)(1)(C)</u>	<u>Interpreting Physician Continuing Education and Experience</u>	<u>6 years</u>
<u>(h)(1)(E)</u>	<u>Mandatory training for Interpreting Physician, if applicable</u>	<u>6 years</u>
<u>(h)(2)(A)</u>	<u>Medical Radiologic Technologist (MRT) Qualifications</u>	<u>Until 2 years after terminating certification or 2 years after the MRT becomes inactive at the facility.</u>
<u>(h)(2)(C)</u>	<u>Medical Radiologic Technologist Continuing Education and Experience</u>	<u>6 years</u>
<u>(h)(2)(E)</u>	<u>Mandatory training for Medical Radiologic Technologist, if applicable</u>	<u>6 years</u>
<u>(h)(3)(A)</u>	<u>Medical Physicist Qualifications</u>	<u>Until 2 years terminating certification or 2 years after the physicist becomes inactive at the facility</u>
<u>(h)(3)(C)</u>	<u>Medical Physicist Continuing Education and Experience</u>	<u>6 years</u>
<u>(i)(10)</u>	<u>FDA Variances</u>	<u>Until termination of certification or equipment is replaced</u>
<u>(k)(2)</u>	<u>Quality Assurance (QA) Records</u>	<u>Until the next annual inspection has been completed and the department has determined that the facility is compliant with the QA requirements or until the test has been performed two additional times at the required frequency, whichever is longer.</u>
<u>(l)(10)</u>	<u>Physicist Mammography Survey</u>	<u>7 years</u>
<u>(l)(11)</u>	<u>Physicist Mammography Equipment Evaluation</u>	<u>2 years</u>

<u>(m)(2)</u>	<u>Medical Outcomes Audit</u>	<u>2 years</u>
<u>(o)</u>	<u>Complaints</u>	<u>3 years</u>
<u>(t)(1)</u>	<u>Operating & Safety Procedures</u>	<u>Until termination of certification</u>
<u>(t)(5); (w)(13)</u>	<u>Records of Receipt, Transfer, and Disposal</u>	<u>Until termination of certification</u>
<u>(t)(8)(B)</u>	<u>Protective Devices Annual Check</u>	<u>3 years</u>
<u>(t)(10)</u>	<u>Records on Calibration, Maintenance and Modifications Performed on Mammography Machines</u>	<u>2 years</u>
<u>(t)(1)(A)</u>	<u>Current §§289.203, 289.204, 289.205, 289.226, 289.227, 289.230, and 289.231.</u>	<u>Until termination of certification</u>
<u>(k)(2)</u>	<u>Current Certification of Mammography Systems</u>	<u>Until termination of certification</u>
<u>(f)(2)</u>	<u>Current Accreditation of Mammography Systems</u>	<u>Until termination of certification</u>
<u>(v)(5)</u>	<u>Certification of Inspection</u>	<u>Until termination of certification</u>
<u>(v)(6)</u>	<u>Notice of Failure</u>	<u>Until termination of certification</u>
<u>(v)(7)</u>	<u>Patient Notification</u>	<u>Until termination of certification</u>
<u>(w)(14)</u>	<u>Records of Calibration, Maintenance, and Modifications Performed on Interventional Breast Radiography Machines</u>	<u>Until termination of certification</u>

Figure: 26 TAC §745.117

Program of Limited Duration	Criteria for Exemption
(1) Parents on the Premises	<p>(A) The program operates in association with a shopping center, business, and other activities such as retreats or classes for religious instruction;</p> <p>(B) The program does not advertise as a child-care facility or day-care center and informs parents that it is not licensed by the state;</p> <p>(C) The parent or person responsible for the child attends or engages in some elective activity nearby, part-time employees or contractors who conduct the elective activity may use the program meeting the limits stated in subparagraph (D) of this paragraph. A caregiver for the program may use the program for the caregiver's own children as long as the child remains with a caregiver;</p> <p>(D) A child may only be in care for up to four and one-half hours per day and:</p> <p style="padding-left: 40px;">(i) For up to 12 hours per week; or</p> <p style="padding-left: 40px;">(ii) For up to 15 hours per week if care is provided so a person may attend an educational class provided by a nonprofit entity, and the program is in a county with a municipality that has a population of 500,000 or more and the county is adjacent to an international border; and</p> <p>(E) The program's caregivers must be able to contact the parent or person responsible for the child at all times.</p>
(2) Short-Term Program	<p>(A) The program operates for less than three consecutive weeks and less than 40 days in a period of 12 months; and</p> <p>(B) It is not a part of an operation subject to CCR regulation.</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.

Texas Alcoholic Beverage Commission

Advertising Specialties Limit Order

ADVERTISING SPECIALTIES	§	BEFORE THE
LIMIT PURSUANT TO ALCOHOLIC	§	TEXAS ALCOHOLIC BEVERAGE
BEVERAGE CODE SECTION 102.07	§	COMMISSION

ADVERTISING SPECIALTIES LIMIT ORDER

Alcoholic Beverage Code Section 102.07(b) and Texas Alcoholic Beverage Commission (TABC) Administrative Rule 45.117(c)(2) authorize the Executive Director of the TABC to, not more than once a year, increase or decrease the total amount of advertising specialties permitted to be furnished to retailers under Section 102.07(b). Any increase or decrease may not exceed six percent based on the consumer price index and previous adjustments, if any.

By order dated February 12, 2024, the total cost of all advertising specialties furnished to a retailer by an applicable permittee was set at \$132.50 per brand per calendar year. *See* 49 TexReg 1135.

TABC has determined that a six percent increase to the allowable amount is warranted, primarily due to inflation and the lack of adjustments in years prior to 2024. A six percent increase applied to \$132.50 is \$140.45.

IT IS THEREFORE ORDERED THAT THE TOTAL COST OF ADVERTISING SPECIALTIES AUTHORIZED UNDER ALCOHOLIC BEVERAGE CODE SECTION 102.07(b) IS \$140.45 PER BRAND PER CALENDAR YEAR.

ENTERED AND EFFECTIVE on 2/19/2025.

TEXAS ALCOHOLIC BEVERAGE
COMMISSION

Thomas Graham

THOMAS GRAHAM
EXECUTIVE DIRECTOR

TRD-202500653
Matt Diamond
Special Counsel
Texas Alcoholic Beverage Commission
Filed: February 20, 2025



Coastal Bend Workforce Development Board

Request for Statement of Qualifications for Fiscal Monitoring Services RFQ 25-04

Workforce Solutions Coastal Bend (WFSCB) is soliciting proposals from entities or individuals qualified to perform independent fiscal monitoring services including development of a risk assessment and

monitoring plan, an annual and a follow-up review of WFSCB's subcontractors (primarily the managers/operators of its workforce centers and child care services) and an evaluation of financial position. Monitoring services should satisfy WFSCB's obligations under its contract with the Texas Workforce Commission and the U.S. Department of Labor to ensure compliance and fiscal integrity. The total contract term may be up to four years consisting of an initial period and three one-year renewals.

The RFQ will be available on Monday, March 3, 2025 at 2:00 p.m. Central Time and can be accessed on our website at: <https://www.workforcesolutionscb.org/about-us/procurement-opportunities/> or by contacting Nelda Rios Nelda.Rios@workforcesolutionscb.org or (361) 885-3020.

Interested parties are encouraged to attend a **Pre-Proposal meeting** at WFSCB's Administrative Offices located at 400 Mann Street, Suite 800, Corpus Christi, Texas 78401, Main Conference Room on **Monday, March 10, 2025 at 10:00 a.m. Central Time**. The purpose of the meeting is to review the RFQ requirements and answer any questions related to the RFQ. While this meeting is not mandatory, attendance is strongly recommended. Parties unable to attend in person may participate virtually from a computer, tablet, or smart phone via Zoom:

Join Zoom Meeting

<https://us02web.zoom.us/j/88669723566?pwd=ZqgaE40Yid0AmUC-H1coWS38ZGHbJCb.1>

US Toll-Free Call In: (888) 475-4499

Meeting ID: 886 6972 3566

Passcode: 731528

Proposals are due by Monday, March 31, 2025 at 4:00 p.m. Central Time and may be submitted via email to Nelda.Rios@workforcesolutionscb.org or hand delivered or mailed to: Workforce Solutions Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: 1 (800) 735-2989 (TDD) and 1 (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

TRD-202500725

Alba Silvas

Chief Operating Officer

Coastal Bend Workforce Development Board

Filed: February 25, 2025

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/03/25 - 03/09/25 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/03/25 - 03/09/25 is 18.00% for commercial² credit.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202500737

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 26, 2025

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 7, 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 **April 7, 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: Al's Investments, Incorporated; DOCKET NUMBER: 2023-1296-PWS-E; IDENTIFIER: RN101435592; LOCATION: Alvord, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(h)(4), by failing to have all backflow prevention assemblies tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's two pressure tanks annually; and 30 TAC §290.46(s)(1), by failing to calibrate

the facility's well meter at least once every three years; PENALTY: \$2,850; ENFORCEMENT COORDINATOR: Ilia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: BARD Enterprises, LLC dba Atlas Dirt and Construction and Emzy William Walker; DOCKET NUMBER: 2023-1054-MSW-E; IDENTIFIER: RN111482360; LOCATION: Hawley, Jones County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized disposal of MSW; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Eresha DeSilva, (512) 239-5084; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Bastrop Independent School District; DOCKET NUMBER: 2024-0167-PST-E; IDENTIFIER: RN106078363; LOCATION: Cedar Creek, Bastrop County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and selfcertification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.8(h)(1)(A)(i) and (ii) and TWC, §26.3475(c)(1) and (2), by failing to conduct the walkthrough inspections of the spill prevention and release detection equipment every 30 days; and 30 TAC §334.50(b)(1)(B) and TWC, §26.3475(c)(1), by failing to monitor the UST in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for tanks installed on or after January 1, 2009; PENALTY: \$33,125; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(4) COMPANY: Blue Water Resort, Incorporated; DOCKET NUMBER: 2021-0524-MWD-E; IDENTIFIER: RN109137612; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0015498001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and (5) and §319.5(b) and TPDES Permit Number WQ0015498001, Effluent Limitations and Monitoring Requirements Number 1, by failing to collect and analyze effluent samples at the intervals specified in the permit; PENALTY: \$32,632; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: CARMAX AUTO SUPERSTORES, INCORPORATED dba Carmax Auto Superstore 6090; DOCKET NUMBER: 2023-1007-PST-E; IDENTIFIER: RN110120722; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: car dealership with an underground storage tank to refuel vehicles; RULES VIOLATED: 30 TAC §334.45(d)(1)(E)(iv) and TWC, §26.3475(c)(2), by failing to maintain sumps in a manner that assures that their sides, bottoms, and any penetration points are liquid tight; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 430-6057; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(6) COMPANY: City of Livingston; DOCKET NUMBER: 2023-1423-MWD-E; IDENTIFIER: RN101916500; LOCATION: Livingston, Polk County; TYPE OF FACILITY: wastewater treat-

ment facility; RULES VIOLATED: 30 TAC §305.125 (1) TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010208001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$152,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$152,000; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: City of New Deal; DOCKET NUMBER: 2023-0091-MWD-E; IDENTIFIER: RN102178852; LOCATION: New Deal, Lubbock County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1) and TCEQ Permit Number WQ0012740001, Monitoring Requirements Number 5, by failing to have automatic flow measuring devices accurately calibrated by a trained person at plant start-up and thereafter not less often than annually; 30 TAC §305.125(1) and (5) and TCEQ Permit Number WQ0012740001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; and 30 TAC §305.125(1) and (5) and TCEQ Permit Number WQ0012740001, Special Provisions Number 6, by failing to design and manage the irrigation area to prevent ponding or surfacing of effluent or contamination of ground and surface waters and to prevent nuisance conditions; PENALTY: \$3,600; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: Cliff View Condominium Community, Incorporated; DOCKET NUMBER: 2024-0819-PWS-E; IDENTIFIER: RN105915847; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.43(c)(3), by failing to provide an overflow discharge opening on the ground storage tank (GST) with a gravity-hinged and weighted cover that closes automatically and fits tightly with no gap over 1/16 inch, an elastomeric duckbill valve, or other approved device to prevent the entrance of insect and other nuisances, and ensure the discharge opening of the overflow is above the surface of the ground and is not subject to submergence; 30 TAC §290.43(c)(4), by failing to provide the GST with a liquid level indicator; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 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: \$995; ENFORCEMENT COORDINATOR: Nick Lohret-Froio, (512) 239-4495; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: Dominic Davila dba Dom Can Do It, LLC; DOCKET NUMBER: 2023-1455-WOC-E; IDENTIFIER: RN111214730; LOCATION: Humble, Harris County; TYPE OF FACILITY: landscape irrigation installation; RULES VIOLATED: 30 TAC §30.5(a), TWC, §37.003, and Texas Occupations Code (TOC), §1903.251, by failing to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, servicing, providing consulting services relating to an irrigation system, or connecting an irrigation system to any water supply; and 30 TAC §30.5(b), TWC, §37.003, and TOC, §1903.251, by failing to refrain from advertising or representing to the public that they can perform services for which a license is required unless they hold a current license, or unless they employ an individual who holds a current license; PENALTY: \$1,125; ENFORCEMENT

COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: East Montgomery County Municipal Utility District 4; DOCKET NUMBER: 2024-0191-MWD-E; IDENTIFIER: RN102805959; LOCATION: New Caney, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014311001 Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$20,663; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$20,663; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: HALEPASKA PROPERTY MANAGEMENT, LLC; DOCKET NUMBER: 2024-1013-MLM-E; IDENTIFIER: RN106599905; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §288.20(a) and 288.30(5)(B), and TWC, §11.1272(c), by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier; 30 TAC §290.42(l), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.45(b)(1)(A)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 1.5 gallons per minute per connection; 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher groundwater license issued by the executive director (ED); and 30 TAC §290.46(f)(2) and (3)(B)(iv) and (D)(i) and (ii), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; PENALTY: \$4,340; ENFORCEMENT COORDINATOR: De'Shaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(12) COMPANY: Iola Independent School District; DOCKET NUMBER: 2023-1232-MWD-E; IDENTIFIER: RN101221620; LOCATION: Iola, Grimes County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014400001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$36,975; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$36,975; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Lake Alan Henry Boat and RV Storage Incorporated; DOCKET NUMBER: 2023-0422-PWS-E; IDENTIFIER: RN105673313; LOCATION: Justiceburg, Garza County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e) and (h)(1) and (l)(5) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the Executive Director for review and approval prior to the construction of a new public water supply; 30 TAC §290.39(l)(5) and §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC 290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's well into service; and 30 TAC 290.45(c)(1)(B)(iii) and THSC, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 1.0 gallons per minute per unit; PENALTY: \$1,325; ENFORCEMENT COORDINATOR: Ronica

Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: LAMESA ENTERPRISES, INCORPORATED; DOCKET NUMBER: 2024-1074-PWS-E; IDENTIFIER: RN104580758; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(B), by failing to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface; 30 TAC §290.41(c)(3)(J), by failing to provide the facility's well with a concrete sealing block that extends a minimum of three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away from the wellhead at not less than 0.25 inches per foot; 30 TAC §290.41(c)(3)(K), by failing to seal the wellhead by a gasket or sealing compound and provide a well casing vent for the well that is covered with 16-mesh or finer corrosion-resistance screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly, as identified in 30 TAC §290.47(f); 30 TAC §290.45(d)(2)(B)(ii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide ground storage capacity equal to 50% of the maximum daily demand (MDD); 30 TAC §290.45(d)(2)(B)(iii) and THSC, §341.0315(c), by failing to provide at least one service pump with a capacity of three times the MDD; 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; and 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; PENALTY: \$7,712; ENFORCEMENT COORDINATOR: Iliia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: Porter Municipal Utility District; DOCKET NUMBER: 2022-1589-MWD-E; IDENTIFIER: RN101516920; LOCATION: Porter, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0012242001, Interim I Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$55,250; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(16) COMPANY: The Chart House Condominium Association, Incorporated; DOCKET NUMBER: 2023-0165-PWS-E; IDENTIFIER: RN101252740; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.108(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of five picocuries per liter (pCi/L) for combined radium-226 and radium-228 and 15 pCi/L for gross alpha particle activity based on the running annual averages; 30 TAC §290.117(c)(2)(B), (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, 2022 - December 31, 2022, monitoring periods; and 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 ED for the January 1, 2019 - December 31, 2021, monitoring periods; PENALTY:

\$3,725; ENFORCEMENT COORDINATOR: Hilda Iyasele, (512) 239-5280; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: Trail of the Lakes Municipal Utility District; DOCKET NUMBER: 2024-0516-MWD-E; IDENTIFIER: RN102739455; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011901001, Monitoring and Reporting Requirements Number 5, by failing to maintain the required calibration records and have them available for review during the investigation and maintained on-site for three years; and 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0011901001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; PENALTY: \$5,800; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2023-1798-PWS-E; IDENTIFIER: RN101241255; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(f)(1)(E)(ii)(I), by failing to provide adequate containment for all liquid chemical storage tanks; 30 TAC 290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per connection; 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide the minimum total storage capacity; 30 TAC §290.46(f)(2) and (3)(D)(ii), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(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: \$15,138; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(19) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2024-0316-PWS-E; IDENTIFIER: RN101284453; LOCATION: Angleton, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$2,550; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(20) COMPANY: Union Processing Systems, LLC; DOCKET NUMBER: 2024-0239-WDW-E; IDENTIFIER: RN104729918; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: industrial and commercial receiver with one waste disposal well (WDW); RULES VIOLATED: 30 TAC §305.125(1) and §331.63(h) and Underground Injection Control Permit Number WDW 410, Permit Provision III.A.2 Waste Acceptance Criterion, by failing to maintain chemical and physical characteristics of the injected fluids within specified permit limits; PENALTY: \$7,313; ENFORCEMENT COORDINATOR: Eresha DeSilva, (512) 239-5084; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: United States National Park Service; DOCKET NUMBER: 2023-0661-PWS-E; IDENTIFIER: RN102096856; LOCATION: Big Bend National Park, Brewster County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j) and Texas Health and Safety Code (THSC), §341.0315, by failing to notify the executive director (ED) prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §290.44(d)(2), by failing to provide increased pressure by means of booster pumps taking suction from ground storage tanks or obtain an exception by acquiring plan approval from the ED for a booster pump taking suction from the distribution lines; 30 TAC §290.45(b)(1)(C)(iii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide two or more service pumps having a total capacity of 2.0 gallons per minute per connection; and 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide a minimum pressure tank capacity of 20 gallons per connection; PENALTY: \$3,270; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: William Euceda dba K&W Quick Stop; DOCKET NUMBER: 2022-0917-PST-E; IDENTIFIER: RN102220530; LOCATION: Harlingen, Cameron County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Amy Lane, (512) 239-2614; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(23) COMPANY: Yoakum Packing Company; DOCKET NUMBER: 2023-0581-IWD-E; IDENTIFIER: RN103009189; LOCATION: Yoakum, DeWitt County; TYPE OF FACILITY: meat processing facility; RULES VIOLATED: 30 TAC §321.57 and TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of wastewater from the facility into or adjacent to water in the state; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

TRD-202500688

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: February 25, 2025



Enforcement Orders

An agreed order was adopted regarding Pittsburgh Corning, LLC, Docket No. 2022-1034-AIR-E on February 25, 2025, assessing \$3,250 in administrative penalties with \$650 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Berry Contracting, L.P., Docket No. 2022-1062-AIR-E on February 25, 2025, assessing \$3,563 in administrative penalties with \$712 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Montgomery County Municipal Utility District 138, Docket No. 2022-1081-MWD-E on February 25, 2025, assessing \$4,875 in administrative penalties with \$975 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 Preferred Materials, LLC, Docket No. 2022-1092-AIR-E on February 25, 2025, assessing \$2,888 in administrative penalties with \$577 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 Luminant Generation Company LLC, Docket No. 2022-1201-AIR-E on February 25, 2025, assessing \$6,913 in administrative penalties with \$1,382 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-0077-PWS-E on February 25, 2025, assessing \$1,878 in administrative penalties with \$375 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 Undine Texas, LLC, Docket No. 2023-0117-PWS-E on February 25, 2025, assessing \$6,350 in administrative penalties with \$1,270 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, 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 Skidmore Water Supply Corporation, Docket No. 2023-0637-MWD-E on February 25, 2025, assessing \$7,227 in administrative penalties with \$1,445 deferred. 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 Bandera River Ranch Water Supply Corporation, Docket No. 2023-0704-PWS-E on February 25, 2025, assessing \$5,674 in administrative penalties with \$1,134 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSWR-Texas Utility Operating Company, LLC, Docket No. 2023-0738-PWS-E on February 25, 2025, assessing \$4,500 in administrative penalties with \$900 deferred. 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 City of Maypearl, Docket No. 2023-0795-PWS-E on February 25, 2025, assessing \$675 in administrative penalties with \$135 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 Undine Texas, LLC, Docket No. 2023-0822-PWS-E on February 25, 2025, assessing \$930 in administrative penalties with \$186 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 ARYA & ZOYA LLC, Parvez Maknojia dba ARYA & ZOYA LLC, Hazrat Maknojia dba ARYA & ZOYA LLC, and Sohaib Momin dba ARYA & ZOYA LLC, Docket No. 2023-0854-PWS-E on February 25, 2025, assessing \$4,960 in administrative penalties with \$992 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 ROCKSPRINGS 380 RVP LLC, Docket No. 2023-0896-PWS-E on February 25, 2025, assessing \$1,675 in administrative penalties with \$335 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 Hyde Park TE, LLC, Docket No. 2023-1367-WQ-E on February 25, 2025, assessing \$4,688 in administrative penalties with \$937 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 City of Chico, Docket No. 2023-1487-PWS-E on February 25, 2025, assessing \$312 in administrative penalties with \$62 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 PEBBLE CREEK INTERESTS, LTD., Docket No. 2023-1531-WR-E on February 25, 2025, assessing \$1,400 in administrative penalties with \$280 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 City of Eldorado, Docket No. 2023-1792-MSW-E on February 25, 2025, assessing \$6,000 in administrative penalties with \$1,200 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 LEONCITA CATTLE COMPANY, Docket No. 2024-0206-PWS-E on February 25, 2025, assessing \$1,000 in administrative penalties with \$200 deferred. Information concerning any aspect of this order may be obtained by contacting Nicholas 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 C & R WATER SUPPLY INC., Docket No. 2024-0682-PWS-E on February 25, 2025, assessing \$55 in administrative penalties with \$11 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.

A field citation was adopted regarding Jimmy Lee McClintock, Jr., Docket No. 2024-0700-WOC-E on February 25, 2025, assessing \$175 in administrative penalties. Information concerning any aspect of this citation 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 Hungerford Municipal Utility District 1, Docket No. 2024-0705-PWS-E on February 25, 2025, assessing \$2,800 in administrative penalties with \$560 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 City of Jayton, Docket No. 2024-0706-PWS-E on February 25, 2025, assessing \$825 in administrative penalties with \$165 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 Jonestown Water Supply Corporation, Docket No. 2024-0734-PWS-E on February 25, 2025, assessing \$420 in administrative penalties with \$84 deferred. Information concerning any aspect of this order may be obtained by contacting Nicholas 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 Rio Hondo, Docket No. 2024-0735-PWS-E on February 25, 2025, assessing \$92 in administrative penalties with \$18 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 CSWR-Texas Utility Operating Company, LLC, Docket No. 2024-0755-PWS-E on February 25, 2025, assessing \$1,100 in administrative penalties with \$220 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 Diocese of Victoria, Docket No. 2024-0756-PWS-E on February 25, 2025, assessing \$1,550 in administrative penalties with \$310 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 Southwestern Texas Synod Outdoor and Retreat Ministries, Inc., Docket No. 2024-0798-PWS-E on February 25, 2025, assessing \$2,225 in administrative penalties with \$445 deferred. 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 City of Mathis, Docket No. 2024-0800-PWS-E on February 25, 2025, assessing \$50 in administrative penalties with \$10 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 CARRINGTON ASSOCIATES, INC., Docket No. 2024-0809-PWS-E on February 25, 2025, assessing \$61 in administrative penalties with \$12 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, 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 Cypress Forest Public Utility District, Docket No. 2024-0825-PWS-E on February 25, 2025, assessing \$1,000 in administrative penalties with \$200 deferred. 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 CRYSTAL FARMS WATER SUPPLY CORPORATION, Docket No. 2024-0843-PWS-E on February 25, 2025, assessing \$63 in administrative penalties with \$12 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 CARO WATER SUPPLY CORPORATION, Docket No. 2024-0846-PWS-E on February 25, 2025, assessing \$64 in administrative penalties with \$12 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 City of Grandfalls, Docket No. 2024-0899-PWS-E on February 25, 2025, assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, 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 Kenedy, Docket No. 2024-0934-PWS-E on February 25, 2025, assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, 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 Diamond Head Water Supply Corporation, Docket No. 2024-1031-PWS-E on February 25, 2025, assessing \$50 in administrative penalties with \$10 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202500749

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice and Comment Hearing Draft Permit No.: O4592

This is a notice for a notice and comment hearing on Federal Operating Permit Number O4592. During the notice and comment hearing informal questions on the Federal Operating Permit will be answered and formal comments will be received. The Texas Commission on En-

vironmental Quality (TCEQ) has scheduled the notice and comment hearing regarding this application and draft permit as follows:

Date: April 15, 2025

Time: 7:00 p.m.

Location: Portland Community Center

Ballroom A

2000 Billy G Webb Drive

Portland, Texas 78374

Location phone: (361) 777-4670

Application and Draft Permit. Corpus Christi Liquefaction, LLC, P.O. Box 162, Gregory, Texas 78359-0162, a Natural Gas Distribution facility, has applied to the TCEQ for an Initial Issuance of Federal Operating Permit (herein referred to as permit) No. O4592, Application No. 36018 to authorize operation of the Corpus Christi Liquefaction Stage 3 area. The area addressed by the application is located at 622 Hwy 35 in Gregory, San Patricio County, Texas 78359-0162. This application was received by the TCEQ on November 20, 2023.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, will codify the conditions under which the site must operate. The TCEQ Executive Director recommends issuance of the draft permit. The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code (30 TAC) §122.10. The permit will not authorize new construction or new emissions.

Notice and Comment Hearing. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration and an informal discussion period with commission staff members will begin during the first 30 minutes. During the informal discussion period, the public is encouraged to ask questions and engage in open discussion with the applicant and the TCEQ staff concerning this application and draft permit. Issues raised during this discussion period will only be addressed in the formal response to comments if the issue is also presented during the hearing. After the conclusion of the informal discussion period, the TCEQ will conduct a notice and comment hearing regarding the application and draft permit. Individuals may present oral statements when called upon in order of registration. A reasonable time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing. The purpose of this hearing will be to receive formal public comment which the TCEQ will consider in determining whether to revise and/or issue the permit and in determining the accuracy and completeness of the permit. Any person may attend this meeting and submit written or oral comments. The hearing will be conducted in accordance with the Texas Clean Air Act §382.0561, as codified in the Texas Health and Safety Code, and 30 TAC §122.340.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the TCEQ Public Education Program toll free at (800) 687-4040 or (800) RELAY-TX (TDD), at least five business days prior to the hearing.

Any person may also submit written comments before the hearing to the Texas Commission on Environmental Quality, Office of Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Written comments should include (1) your name, address, and daytime telephone number, and (2) the draft permit number found at the top of this notice.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted: written comments and/or hearing requests, attended and signed in at the hearing, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with applicable requirements or the requirements of 30 TAC Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the TCEQ Office of the Chief Clerk at the address above. Those on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box 13087, Austin, Texas 78711-3087 or toll free at (800) 687-4040. General information about the TCEQ can be found at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained for Corpus Christi Liquefaction, LLC by calling Craig Kondoff, Manager, Air Quality at (713) 375-6613.

Notice Issuance Date: February 21, 2025

TRD-202500747

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice of District Petition - TCEQ Docket No. D-01312025-047

Notice issued February 26, 2025

TCEQ Internal Control No. D-01312025-047: Riceland LandVest, LLC, a Texas limited liability company, Woodmere Development Co. Ltd., a Texas limited partnership, and BGM Land Investments, Ltd., a Texas limited partnership (Petitioners) filed a petition for creation of Harris County Municipal Utility District No. 599 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 2,125.5 acres located within Harris County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary wastewater 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 proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; and such other (4) purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional

facilities, including roads, parks and recreation, systems, plants and enterprises as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$438,980,000 (\$300,400,000 for water, wastewater, and drainage plus \$34,730,000 for recreation plus \$103,850,000 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-202500751

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice of District Petition - TCEQ Docket No.
D-02052025-014

Notice issued February 26, 2025

TCEQ Internal Control No. D-02052025-014: Flying W Properties, Ltd., (Petitioner) filed a petition for creation of Comal County Schoenthal 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 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; (3) the proposed District will contain approximately 249.7 acres located within Comal County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, industrial, or commercial purposes or provide adequate drainage for the District; (2) collect, transport, process, dispose of and control domestic, industrial, or commercial wastes; (3) to gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the District; (4) purchase, construct, acquire, provide, operate, maintain, repair, improve, extend, and develop a roadway system for the District; and (5) to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$30,790,692 (\$23,949,359 for water, wastewater, and drainage plus \$6,841,333 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-202500750

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 26, 2025

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Notice of Opportunity to Comment on Agreed Orders of
Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 7, 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 A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 7, 2025**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Iqbal Abdullah dba Quick Stuff 4789 - 80017773; DOCKET NUMBER: 2023-0425-PST-E; TCEQ ID NUMBER: RN103143376; LOCATION: 7150 San Pedro Avenue, San Antonio, Bexar County; TYPE OF FACILITY: underground storage tank (UST) and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(a), and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$2, 556; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: LIME STONE LLC dba K&H Food Store; DOCKET NUMBER: 2023-0758-PST-E; TCEQ ID NUMBER: RN101570570; LOCATION: 809 West Northside Drive, Fort Worth, Tarrant County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475 (c)(1), and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,750; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: LVMX Asphalt, LLC; DOCKET NUMBER: 2023-1643-AIR-E;

TCEQ ID NUMBER: RN111296620; LOCATION: 15583 Faith Road near El Paso, El Paso County; TYPE OF FACILITY: hot mix asphalt plant; RULES VIOLATED: Texas Health & Safety Code, §382.085(b) and 30 TAC §116.115 (c)(2), and Hot Mix Asphalt Plant Standard Permit Registration number 165906, General Requirements number (1)(L), by failing to comply with the opacity emissions limit; PENALTY: \$3,937; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(4) COMPANY: MUKTINATH BUSINESS LLC dba Quick Stop; DOCKET NUMBER: 2022-1025-PST-E; TCEQ ID NUMBER: RN102060092; LOCATION: 1121 North 1st Street, Conroe, Montgomery County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days; and TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,493; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202500690
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: February 25, 2025

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Notice of Opportunity to Comment on Default Orders of
Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DOs 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 **April 7, 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 each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's

central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 7, 2025**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission **in writing**.

(1) COMPANY: BRGSSC, LLC; DOCKET NUMBER: 2021-1444-EAQ-E; TCEQ ID NUMBER: RN106475098; LOCATION: on the south side of Redland Road, approximately 4,200 feet North of Loop 1604, San Antonio, Bexar County; TYPE OF FACILITY: commercial property; RULES VIOLATED: 30 TAC §213.4(k), and Edwards Aquifer Water Pollution Abatement Plan (WPAP) Number 13-15070301, Permanent Pollution Abatement Measures, by failing to comply with conditions of an approved Edwards Aquifer WPAP modification; PENALTY: \$7,500; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Josie Pena; DOCKET NUMBER: 2023-0761-MSW-E; TCEQ ID NUMBER: RN111016085; LOCATION: 4663 County Road 303, San Diego, Duval County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$3,750; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas, 78041-3887, (956) 791-6611.

TRD-202500691

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: February 25, 2025



Notice of Public Meeting Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 177217L002

Application. Raptor Ready Mix Inc, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 177217L002, which would authorize construction of a temporary concrete batch plant located at the following driving directions: From downtown Fort Worth, travel West on I-30 for approximately 9 miles to I-820 N (Exit 5A). Travel North on I-820 for approximately 2.2 miles to Silver Creek Road (Exit 5B). At the light, turn left (West) on Silver Creek Road and travel approximately 0.8 miles. The entrance to the jobsite will be on the West side of Silver Creek Road, Fort Worth, Tarrant County, Texas 76052. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. **AVISO DE IDIOMA ALTERNATIVO.** El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/air/newsourcereview/air-permits-pendingpermit-apps>. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.491362,32.775029&nivel=13> The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

This application was submitted to the TCEQ on October 18, 2024. The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC §116.611, which would establish the conditions under which the plant must operate. The executive director has made a preliminary decision to issue the registration because it meets all applicable rules.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, April 3, 2025 at 7:00 p.m.

National Hall

3316 Roberts Cut Off Road

Fort Worth, Texas 76114

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the link, enter the permit number at the top of this form.

The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas/Fort Worth regional office, and at the White Settlement Library, 8215 White Settlement Road, Fort Worth, Texas, Tarrant County, 76108, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit www.tceq.texas.gov/goto/cbp to review the standard permit.

Further information may also be obtained from Raptor Ready Mix, Inc., 2370 South Uecker Lane, Lewisville, Texas 75067-7823 or by calling Mr. Patrick Garrett, Consultant at (214) 957-4452.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Notice Issuance Date: February 25, 2025

TRD-202500746

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice of Public Meeting for Water Quality Land Application Permit for Municipal Wastewater New Proposed Permit No. WQ0016547001

APPLICATION. White Rocks Entertainment LLC, 3300 Bee Caves Road, Suite 650-1313, West Lake Hills, Texas 78746, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Proposed TCEQ Permit No. WQ0016547001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day via public access subsurface area drip dispersal system on a minimum area of approximately 27.43 acres. This permit will not authorize a discharge of pollutants into waters in the State. TCEQ received this application on May 20, 2024.

The wastewater treatment facility and disposal site will be located at 10549 West Highway 71, near the City of Bee Cave, Travis County, Texas 78736. The wastewater treatment facility and disposal site will be located in the drainage basin of unnamed tributaries of Barton Creek in Segment No. 1430 of the Colorado River Basin. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.91562,30.276774&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the

mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, April 8, 2025 at 7:00 p.m.

Hotel Viata

Juniper Ballroom

320 S. Capital of Texas Highway

West Lake Hills, Texas 78746

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Bee Cave Public Library, 4000 Galleria Parkway, Bee Cave, in Travis County, Texas. The application, including any updates, and associated notices are available electronically at the following webpage: Pending Application Information: Texas Land Application Permits (TLAPs) - Texas Commission on Environmental Quality - www.tceq.texas.gov. Further information may also be obtained from White Rocks Entertainment LLC at the address stated above or by calling Mr. Andy Barrett, Andy Barrett & Associates, PLLC, at (512) 217-4956.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: February 25, 2025

TRD-202500748

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice of Water Quality Application - Minor Amendment WQ0010544001

The following notice was issued on February 20, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS ISSUED.

INFORMATION SECTION

The Texas Commission on Environmental Quality (TCEQ) has initiated a minor amendment of the Texas Pollutant Discharge Elimination System Permit No. WQ0010544001 issued to City of West, to correct the monitoring frequencies for CBOD5, TSS, and NH3-N, from one/day to one/week, in the Interim phase of the permit, on page 2. The

existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located approximately 2,000 feet northeast of the intersection of Farm-to-Market Road 2311 and Farm-to-Market Road 2114, in the City of West, in McLennan County, Texas 76691.

TRD-202500744

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



Notice of Water Quality Application - Minor Amendment WQ0016105001

The following notice was issued on February 21, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS ISSUED.

INFORMATION SECTION

North Collin County Municipal Utility District No. 1 has applied for a minor amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0016105001 to authorize the change in the disinfection method from chlorine to a UV system. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,100,000 gallons per day. The facility is located approximately 2,900 feet northeast of the intersection of County Road 135 and County Road 136, in Collin, County, Texas 75009.

TRD-202500745

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 26, 2025



General Land Office

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of February 10, 2025, to February 21, 2025. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, February 28, 2025. The public comment period for this project will close at 5:00 p.m. on Sunday, March 30, 2025.

Federal License and Permit Activities:

Applicant: Kansas City Southern Railroad

Location: The project site is located in the Sabine-Neches Waterway, along D D 7 Levee Road, in Port Arthur, Jefferson County, Texas.

Latitude and Longitude: 29.930707, -93.875504

Project Description: The applicant proposes to expand the dredging footprint and depth associated with a previously authorized project to better accommodate incoming ships and match new Federal channel lines. The area to be mechanically and/or hydraulically dredged will be expanded from 5.86 acres to 7.46 acres and increased in depth from -46 feet to a maximum depth of -52 feet MLLW (-54 feet MHW). Approximately 101,267 cubic yards of material will be dredged. The dredged material will be placed into federal dredged material placement areas (DPMAs) 5, 8, 9, 12, 13, 14, 16, 17, 18, 22, 23, 24, 25, and 26. Additionally, the applicant requests maintenance dredging for a period of ten years. Compensatory mitigation is not proposed.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-1996-02886. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1115-F1

Applicant: City of Corpus Christi

Location: The project site is located in Oso Bay, at South Bay Park, in Corpus Christi, Nueces County, Texas.

Latitude and Longitude: 27.691613, -97.317788

Project Description: The City of Corpus Christi proposes to replace the failing retaining wall and shoreline protection at South Bay Park with a sand beach, a vegetated articulating block mat (ABM) revetment, and a rock groin system. The proposed system will closely mimic the historical shoreline, add resilience with the installation of rock groins, provide an ecological uplift from existing site conditions, and create the only official public recreational access point for Oso Bay.

Approximately 1,980 cubic yards (CY) of sand and 371 CY of rock will be placed into Oso Bay for the proposed beach and rock groin shoreline stabilization concept. The shoreline will also include approximately 127 CY of vegetated concrete articulating block mattress (ABM) revetment, which will be placed on top of geotextile fabric to reduce settlement. The ABM revetment will be approximately 6-inches thick and occupy approximately 0.022 acres below the high tide line (HTL). Sand fill will total approximately 0.527 acres, and rock fill for the rock groin will total approximately 0.100 acres in Oso Bay. All fill material in Oso Bay will total approximately 0.65 acres.

The Project will also remove an existing storm drain and install a new drainage outfall east of the rock groin. Moreover, additional repairs will be implemented, such as park upland sidewalks, and one walkway ramp, to allow the community safe access to the proposed sand beach.

The rock groins will be constructed west and east of the sand beach. The western rock groin will be approximately 74 linear feet (LF), and the eastern rock groin will be approximately 99 LF in length. The two rock groins will have a crest elevation of +3.5 feet (ft) North American Vertical Datum (NAVD), approximately 2.5 horizontal (minimum) to 1 vertical side slope. The groins will be approximately 8 feet wide at the top of the crest and have an average base width of 25 feet, as illustrated in Attachment A. The rock will be placed on geotextile fabric on the bay bottom to help reduce settlement.

Sand fill is proposed to be placed between the rock groins at a maximum elevation of +2.75 ft NAVD for shoreline stabilization and beach sand creation. Fill material will be provided by a contractor and will be

tested for total organic carbon, total petroleum hydrocarbons, ammonia, grain size distribution, and percent solids. Construction machinery such as tracked excavators, front-end loaders, dump trucks, or dozers will access the Project Area from existing roads adjacent to South Bay Park and the landside. No vessels, other aquatic construction machinery, or dredging are proposed to minimize aquatic disturbances.

The proposed Project aims to restore the historical shoreline of South Bay Park by creating a stabilized shoreline with a sand beach, vegetated ABM revetment, and a rock groin system. The Project will not impact any special aquatic resources such as seagrass, oyster reefs, or wetlands. The Project will provide an ecological uplift by placing a rock groin that provides increased availability of hard substrate as a habitat for other estuarine and marine organisms and provide a sand beach for public access to Oso Bay and foraging grounds for shorebirds. Since the Project's main goal is to restore the existing shoreline, and it does not result in the loss of special aquatic sites, compensatory mitigation is not proposed.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-2024-00550. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1126-F1

Applicant: Pelican Asphalt/Lone Star Paving

Location: The project site is located in the Old River (San Jacinto), approximately 17 miles east of Houston, within Harris County, Texas.

Latitude and Longitude: 29.789025, -95.086581

Project Description: The applicant requests a modification as an extension of time (EOT) to previously authorized Permit SWG-1996-02924 (formerly 15555) for a period of 10 years for maintenance dredging activities of the entire 1.98-acre boat slip to the previously authorized total dredge depth of -13.73 feet Mean High Water (MHW) -11.5 feet Mean Lower Low water (MLLW) + 1-foot over dredge. The applicant proposes to dredge up to 10,000 cubic yards of accumulated silt and mud during each maintenance dredging cycle using mechanical (clamshell) and/or hydraulic cutterhead suction methods. Dredged material will be hydraulically pumped via pipeline or transported by barge to previously authorized placement areas, including Peggy Lake, Alexander Island, Lost Lake, Spillman Island, East and West Clinton, Texas Deepwater, East and West Jones, Adloy, and Avera. The purpose of the project is to maintain navigational capacity and operational safety in the applicant's barge fleet and loading area. The applicant has not proposed mitigation.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-1996-02924. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1127-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202500689

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: February 25, 2025

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Texas Health and Human Services Commission

Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendments will be effective April 1, 2025.

The purpose of the amendments is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following services:

Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT);

Family Planning Services; and

Physicians and Other Practitioners

The proposed amendments are estimated to result in an increase to annual aggregate expenditure of \$17,725 for federal fiscal year (FFY) 2025, consisting of \$10,977 in federal funds and \$6,748 in state general revenue. For FFY 2026, the estimated result is an increase to annual aggregate expenditure of \$35,873 consisting of \$22,161 in federal funds and \$13,712 in state general revenue. For FFY 2027, the estimated result is an increase to annual aggregate expenditure of \$36,356 consisting of \$22,461 in federal funds and \$13,895 in state general revenue.

Further detail on specific reimbursement rates and percentage changes will be made available on the HHSC Provider Finance website before the proposed effective date at: <https://pfd.hhs.texas.gov/rate-packets>.

Rate Hearings.

A rate hearing was conducted in person and online on February 14th, 2024. Information about the proposed rate changes and hearing was published in the January 31, 2025, issue of the *Texas Register* (50 TexReg 685). Additional information and the notice of hearings can be found at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendment.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments.

Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance Department

Mail Code H-400
P.O. Box 149030
Austin, Texas 78714-9030
Overnight mail, special delivery mail, or hand delivery
Texas Health and Human Services Commission
Attention: Provider Finance Department
North Austin Complex
Mail Code H-400
4601 W. Guadalupe St.
Austin, Texas 78751
Phone number for package delivery: (512) 730-7401
Fax
Attention: Provider Finance at (512) 730-7475
Email
PFDAcuteCare@hhs.texas.gov
Preferred Communication.
For quickest response, please use e-mail or phone, if possible, for communication with HHSC related to this state plan amendment.
TRD-202500661

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: February 21, 2025

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Department of State Health Services

Correction of Error

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposed an amendment to 25 TAC §289.230 as well as the repeal of 25 TAC §289.234 in the February 21, 2025, issue of the *Texas Register* (50 TexReg 908). Due to an error by the Texas Register, numerous provisions in the amendment were formatted incorrectly or were omitted from the proposed rulemaking notice. The corrected proposal as well as the repeal are republished in the Proposed Rules section of the March 7, 2025, issue of the *Texas Register*.

TRD-202500740

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Licensing Actions for Radioactive Materials

During the first half of December 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 Department 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
THROUGHOUT TX	LA FULLER AND SONS CONSTRUCTION LTD	L07246	AMARILLO	00	12/10/24
THROUGHOUT TX	FAIRWAY ENERGY SERVICES LLC	L07248	GLADEWATER	00	12/12/24
THROUGHOUT TX	OMEGA ASSOCIATES & ENGINEERS LLC	L07247	HOUSTON	00	12/11/24
THROUGHOUT TX	NEXLINE NDT LLC	L07249	MIDLAND	00	12/16/24

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
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP DBA HEART HOSPITAL OF AUSTIN	L06372	AUSTIN	15	12/11/24
AUSTIN	ARA ST DAVIDS IMAGING LP	L05862	AUSTIN	127	12/09/24
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L00740	AUSTIN	189	12/03/24
AUSTIN	AUSTIN RADIOLOGICAL ASSOCIATION	L00545	AUSTIN	257	12/05/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

BAYTOWN	SPECIALTY ASSOCIATES OF WEST HOUSTON PLLC DBA HOUSTON HEART	L07189	BAYTOWN	01	12/05/24
BORGER	WRB REFINING LP	L02480	BORGER	75	12/09/24
CLEBURNE	JOHNS MANVILLE	L01482	CLEBURNE	28	12/04/24
DALLAS	TEXAS INSTRUMENTS INC	L05048	DALLAS	24	12/06/24
DALLAS	SOFIE CO	L06174	DALLAS	41	12/02/24
DALLAS	RONE ENGINEERING SERVICES LLC	L02356	DALLAS	65	12/12/24
DALLAS	TEXAS HEALTH PRESBYTERIAN HOSPITAL DALLAS	L01586	DALLAS	113	12/06/24
DENISON	TEXOMACARE SPECIALTY PHYSICIANS	L06504	DENISON	07	12/10/24
DENTON	TEXAS ONCOLOGY PA	L05815	DENTON	25	12/06/24
EL PASO	AKUMIN IMAGING TEXAS LLC DBA SOUTHWEST X-RAY	L05207	EL PASO	29	12/11/24
FORT WORTH	ONCOLOGY HEMATOLOGY CONSULTANTS PA DBA THE CENTER FOR CANCER AND BLOOD DISORDERS	L05919	FORT WORTH	37	12/09/24
GEORGETOWN	TEXAS CANCER INSTITUTE DBA TEXAS CANCER SPECIALISTS	L07207	GEORGETOWN	01	12/09/24
GREGORY	GULF COAST GROWTH VENTURES LLC	L07102	GREGORY	02	12/10/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

HOUSTON	UNITED IMAGING HEALTHCARE NORTH AMERICA INC	L07090	HOUSTON	13	12/09/24
HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L06227	HOUSTON	63	12/09/24
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03772	HOUSTON	181	12/10/24
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03772	HOUSTON	182	12/11/24
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN SOUTHWEST HOSPITAL	L00439	HOUSTON	271	12/10/24
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN SOUTHWEST HOSPITAL	L00439	HOUSTON	272	12/11/24
JEWETT	NRG TEXAS POWER LLC	L05207	JEWETT	10	12/12/24
KATY	CARDIAC IMAGING INC	L06565	KATY	26	12/06/24
LUBBOCK	COVENANT MEDICAL CENTER	L06993	LUBBOCK	12	12/11/24
MCALLEN	MCALLEN HOSPITALS LP	L04902	MCALLEN	31	12/03/24
MIDLOTHIAN	MARTIN MARIETTA NORTH TEXAS CEMENT LLC	L01421	MIDLOTHIAN	69	12/04/24
NEW BRAUNFELS	ASH GROVE CEMENT SOUTH TEXAS LLC	L07181	NEW BRAUNFELS	02	12/17/24
PASADENA	PMC HOSPITAL LLC	L06384	PASADENA	12	12/10/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

PASADENA	EQUISTAR CHEMICALS LP	L01854	PASADENA	58	12/02/24
PLANO	NORTH TEXAS CANCER CENTER LP	L05945	PLANO	20	12/03/24
PORT ARTHUR	MOTIVA ENTERPRISES LLC	L05211	PORT ARTHUR	31	12/02/24
ROUND ROCK	SCOTT & WHITE HOSPITAL-ROUND ROCK DBA BAYLOR SCOTT & WHITE MEDICAL CENTER- ROUND ROCK	L06085	ROUND ROCK	40	12/02/24
ROWLETT	HEALTHTEXAS PROVIDER NETWORK DBA BAYLOR SCOTT & WHITE TEXAS CARDIAC ASSOCIATES ROWLETT	L06784	ROWLETT	2	12/11/24
THROUGHOUT TX	CONSOLIDATED REINFORCEMENT LP	L06826	AUSTIN	02	12/09/24
THROUGHOUT TX	GESSNER ENGINEERING LLC	L03733	BRYAN	36	12/09/24
THROUGHOUT TX	TRISPEC LLC	L06642	CORPUS CHRISTI	12	12/10/24
THROUGHOUT TX	SIGMA OILFIELD SOLUTION LLC	L07184	CYPRESS	05	12/02/24
THROUGHOUT TX	BILFINGER INC	L07048	DEER PARK	07	12/10/24
THROUGHOUT TX	1836 ENGINEERTIN LLC	L07201	FORT WORTH	2	12/06/24
THROUGHOUT TX	WSB LLC	L06986	MELISSA	11	12/04/24
THROUGHOUT TX	THE WIRELINE GROUP INC	L07036	MIDLAND	03	12/02/24
THROUGHOUT TX	TURNER INDUSTRIES GROUP LLC	L07211	PARIS	03	12/02/24
THROUGHOUT TX	DUININCK INC	L03957	ROANOKE	26	12/06/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

THROUGHOUT TX	ALLENS NUTECH INC	L04274	TYLER	111	12/09/24
VICTORIA	EQUISTAR CHEMICALS LP	L04101	VICTORIA	25	12/03/24

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
THROUGHOUT TX	CIVILCORP LLC	L06652	VICTORIA	02	12/05/24

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
THROUGHOUT TX	FUGRO CONSULTANTS INC	L03461	GRAND PRARIE	37	12/02/24

EXEMPTIONS ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	Exemption Number	City of Licensed Entity	Amendment Number	Date of Action
THROUGHOUT TX	Generic Exemption	N/A	E24-06	THROUGHOUT TX	N/A	12/04/24

TRD-202500654
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: February 21, 2025

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 Licensing Actions for Radioactive Materials

During the second half of December 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.

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
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	145	12/30/24
AMARILLO	BSA HOSPITAL LLC DBA BSA HOSPITAL	L06573	AMARILLO	23	12/16/24
BEAUMONT	TEXAS ONCOLOGY PA	L07192	BEAUMONT	02	12/20/24
DALLAS	CARDINAL HEALTH	L05610	DALLAS	56	12/27/24
DALLAS	RLS (USA) INC	L05529	DALLAS	63	12/18/24
HOUSTON	RLS (USA) INC	L05517	HOUSTON	36	12/20/24
LONGVIEW	EASTMAN CHEMICALS COMPANY	L00301	LONGVIEW	128	12/23/24
LUFKIN	VIVEK MANGLA MD PC	L06881	LUFKIN	02	12/20/24
MANSFIELD	TEXAS HEALTH HOSPITAL MANSFIELD	L07076	MANSFIELD	08	12/16/24
NEW BRAUNFELS	RESOLUTE HOSPITAL CORPORATION DBA RESOLUTE BAPTIST HOSPITAL	L06632	NEW BRAUNFELS	14	12/27/24
PLANO	HEALTHTEXAS PROVIDER NETWORK DBA BAYLOR SCOTT & WHITE LEGACY HEART CENTER	L06582	PLANO	17	12/18/24
RICHARDSON	THE UNIVERSITY OF TEXAS AT DALLAS	L02114	RICHARDSON	73	12/23/24
SAN ANTONIO	RLS (USA) INC	L04764	SAN ANTONIO	62	12/18/24
TEXARKANA	COLLOM & CARNEY CLINIC ASSOCIATION	L05524	TEXARKANA	17	12/16/24
TEXARKANA	CHRISTUS HEALTH ARK-LA-TEX DBA CHRISTUS ST MICHAEL HEALTH SYSTEMS	L04805	TEXARKANA	46	12/16/24

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

THE WOODLANDS	METHODIST HEALTH CENTER DBA HOUSTON METHODIST THE WOODLANDS HOSPITAL	L06861	THE WOODLANDS	24	12/18/24
THROUGHOUT TX	LA FULLER AND SONS CONSTRUCTION LTD	L07246	AMARILLO	01	12/16/24
THROUGHOUT TX	MILLENIUM ENGINEERS GROUP INC	L05388	EDINBURG	13	12/16/24
THROUGHOUT TX	OMEGA ASSOCIATES & ENGINEERS LLC	L07247	HOUSTON	01	12/17/24
THROUGHOUT TX	ATLAS TECHNICAL CONSULTANTS LLC	L06407	HOUSTON	35	12/18/24
THROUGHOUT TX	HALLIBURTON ENERGY SERVICES INC	L02113	HOUSTON	148	12/17/24
THROUGHOUT TX	LIBERTY ENERGY SERVICES LLC	L06901	ODESSA	11	12/18/24
THROUGHOUT TX	KAKIVIK ASSET MANAGEMENT LLC	L07158	PLEASANTON	02	12/19/24
TYLER	THE UNIVERSITY OF TEXAS HEALTH CENTER AT TYLER	L01796	TYLER	83	12/19/24

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
AUSTIN	ST DAVIDS HEART & VASCULAR PLLC DBA AUSTIN HEART	L04623	AUSTIN	109	12/17/24
EL PASO	EL PASO COUNTY HOSPITAL DISTRICT DBA UNIVERSITY MEDICAL CENTER OF EL PASO	L00502	EL PASO	86	12/18/24

RENEWAL OF LICENSES ISSUED: (continued)

GRANBURY	GRANBURY HOSPITAL CORPORATION DBA LAKE GRANBURY MEDICAL CENTER	L02903	GRANBURY	39	12/27/24
TEMPLE	SCOTT & WHITE MEMORIAL HOSPITAL DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - TEMPLE	L00331	TEMPLE	118	12/17/24
THROUGHOUT TX	TEXAS DEPARTMENT OF TRANSPORTATION	L00197	AUSTIN	207	12/17/24
THROUGHOUT TX	TEXAS A&M UNIVERSITY ENVIRONMENTAL HEALTH & SAFETY	L05683	COLLEGE STATION	48	12/18/24
THROUGHOUT TX	GEOTEX ENGINEERING LLC	L06677	DENTON	28	12/19/24
THROUGHOUT TX	TERRACON CONSULTANTS INC	L05268	HOUSTON	80	12/23/24
THROUGHOUT TX	FENAGH LLC	L07124	ROUND ROCK	05	12/20/24

TRD-202500655
Cynthia Hernandez
General Counsel
Department of State Health Services
Filed: February 21, 2025

Texas Department of Insurance

Company Licensing

Application to do business in the state of Texas for Nevada General Insurance Company, a foreign fire and/or casualty company. The home office is in Carson City, Nevada.

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-202500631
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: February 19, 2025

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Company Licensing

Application for American National Lloyds Insurance Company, a domestic fire and/or casualty company, to change its name to American National Specialty Insurance Company. The home office is in Galveston, Texas.

Application to do business in the state of Texas for Care West Insurance Company, a foreign fire and/or casualty company. The home office is in Rocklin, California.

Application to do business in the state of Texas for CompSource Mutual Insurance Company, a foreign fire and/or casualty company. The home office is in Oklahoma City, Oklahoma.

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-202500739
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: February 26, 2025

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Texas Department of Licensing and Regulation

Notice of Vacancies on the Elevator Advisory Board

The Texas Department of Licensing and Regulation (Department) announces four 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 and having equipment,
- one representative of owners or managers of a building having fewer than six stories or more and having equipment,
- one representative of independent equipment maintenance companies; and
- one representative of equipment manufacturers.

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 positions and there is no compensation or reimbursement for serving on the Board.

Issued in Austin, Texas on March 7, 2025.

TRD-202500651

Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: February 20, 2025

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Notice of Vacancy on Driver Training and Traffic Safety Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Driver Training and Traffic Safety Advisory Committee (Committee) established by Texas Education Code, Chapter 1001. The purpose of the Committee is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on rules and educational and technical matters relevant to the administration of this chapter. Members will serve an important role in assisting the agency implement the key changes due to HB 1560. The Committee meets at the call of the Executive Director or the presiding officer of the Commission. Service as a Committee member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- one driver education provider.

The Commission 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 February 1 of each odd-numbered year. The Committee is composed of the following members.

- Three driver education providers;
- Three driving safety providers;
- One driver education instructor;
- One division head of the Department of Public Safety Driver License Division or the Division head's designee; and
- 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 e-mail 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 on March 7, 2025.

TRD-202500650
Courtney Arbour
Executive Director
Texas Department of Licensing and Regulation
Filed: February 20, 2025

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Notice of Vacancy on Property Tax Consultants Advisory Council

The Texas Department of Licensing and Regulation (Department) announces one vacancy on the Property Tax Consultants Advisory Council (Council) established by Texas Occupations Code, Chapter 1152. The pertinent rules may be found in 16 Texas Administrative Code §66.65. The purpose of the Property Tax Consultants Advisory Council is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) on standards of practice, conduct, and ethics for registrants; setting fees; examination contents and

standards of performance for senior property tax consultants; recognition of continuing education programs and courses for registrants; and establishing educational requirements for initial applicants. Service as a Council member is voluntary, and compensation is not authorized by law. **This announcement is for:**

- one registered senior property tax consultant.

The Council is composed of seven members appointed by the presiding officer of the Commission, with the approval of the Commission. Members of the Council are appointed for staggered three-year terms. The terms of two members expiring on February 1 of each year. The Council consists of the following members:

1. six registered senior property tax consultants; and
2. one public member.

All members who are property tax consultants must be:

- a registered senior property tax consultant;
- a member of a nonprofit and voluntary trade association:
 - a. whose membership consists primarily of persons who perform property tax consulting services in this state or who engage in property tax management in this state for other persons;
 - b. have written experience and examination requirements for membership; and
 - c. that subscribes to a code of professional conduct or ethics;
- be a resident of this state for the five years preceding the date of the appointment; and
- have performed or supervised the performance of property tax consulting services as the person's primary occupation continuously for the five years preceding the date of appointment.

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 Council.

Issued in Austin, Texas this March 7, 2025

TRD-202500652

Courtney Arbour

Executive Director

Texas Department of Licensing and Regulation

Filed: February 20, 2025

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Texas Lottery Commission

Scratch Ticket Game Number 2633 "\$3 MILLION CASH"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2633 is "\$3 MILLION CASH". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2633 shall be \$30.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2633.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$30.00, \$50.00, \$100, \$150, \$200, \$300, \$500, \$1,000, \$10,000 and \$3,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2633 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWN
30	TRTY
31	TRON

32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
\$30.00	TRTY\$

\$50.00	FFTY\$
\$100	ONHN
\$150	ONFF
\$200	TOHN
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$3,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2633), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2633-0000001-001.

H. Pack - A Pack of "\$3 MILLION CASH" Scratch Ticket Game contains 025 Scratch Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The front of Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 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. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "\$3 MILLION CASH" Scratch Ticket Game No. 2633.

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 "\$3 MILLION CASH" Scratch Ticket Game is determined once the latex on the Scratch Ticket

is scratched off to expose seventy-six (76) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy-six (76) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-six (76) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-six (76) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-six (76) 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 thirty-five (35) times.

D. All non-winning YOUR NUMBERS Play Symbols will be different.

E. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

F. All WINNING NUMBERS Play Symbols will be different.

G. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

H. On all Tickets, a Prize Symbol will not appear more than five (5) times, except as required by the prize structure to create multiple wins.

I. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

J. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 30 and \$30 and 50 and \$50).

K. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$3,000,000 will each appear at least one (1) time, except on Tickets winning thirty-five (35) times and with respect to other parameters, play action or prize structure.

L. The "2X" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

M. The "2X" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

N. The "2X" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.

O. The "2X" (DBL) Play Symbol will never appear more than one (1) time on a Ticket.

P. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Q. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

R. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

S. The "5X" (WINX5) Play Symbol will never appear more than one (1) time on a Ticket.

T. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

U. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

V. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

W. The "10X" (WINX10) Play Symbol will never appear more than one (1) time on a Ticket.

X. The "20X" (WINX20) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

Y. The "20X" (WINX20) Play Symbol will never appear on a Non-Winning Ticket.

Z. The "20X" (WINX20) Play Symbol will win 20 TIMES the prize for that Play Symbol and will win as per the prize structure.

AA. The "20X" (WINX20) Play Symbol will never appear more than one (1) time on a Ticket.

BB. The "2X" (DBL), "5X" (WINX5), "10X" (WINX10) and "20X" (WINX20) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$3 MILLION CASH" Scratch Ticket Game prize of \$30.00, \$50.00, \$100, \$150, \$200, \$300 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and,

if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$150, \$200, \$300 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$3 MILLION CASH" Scratch Ticket Game prize of \$1,000 or \$10,000, 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. To claim a "\$3 MILLION CASH" Scratch Ticket Game top level prize of \$3,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas. 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 and proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). 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.

D. As an alternative method of claiming a "\$3 MILLION CASH" Scratch Ticket Game prize, including the top level prize of \$3,000,000, 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.

E. 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.

F. 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.

G. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$3 MILLION CASH" 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 "\$3 MILLION CASH" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket Game prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "\$3 MILLION CASH" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the

Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 7,080,000 Scratch Tickets in the Scratch Ticket Game No. 2633. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2633 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$30.00	792,960	8.93
\$50.00	509,760	13.89
\$100	283,200	25.00
\$150	169,920	41.67
\$200	107,970	65.57
\$300	29,500	240.00
\$500	11,210	631.58
\$1,000	300	23,600.00
\$10,000	50	141,600.00
\$3,000,000	4	1,770,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.72. 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. 2633 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2633, 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-202500738

Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 26, 2025



Scratch Ticket Game Number 2641 "\$5 MILLION MEGA MONEY"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2641 is "\$5 MILLION MEGA MONEY". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2641 shall be \$50.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2641.

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: 1, 3, 4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46,

47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$5,000,000.

D. Play Symbol Caption- The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2641 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
3	THR
4	FOR
6	SIX
7	SVN
8	EGT
9	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNH
30	TRTY
31	TRON

32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY

2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$5,000,000	TPPZ

E. Serial Number- A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2641), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 020 within each Pack. The format will be: 2641-0000001-001.

H. Pack - A Pack of the "\$5 MILLION MEGA MONEY" Scratch Ticket Game contains 020 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 020 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$5 MILLION MEGA MONEY" Scratch Ticket Game No. 2641.

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 "\$5 MILLION MEGA MONEY" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy-six (76) Play Symbols. MEGA BONUS Play Instructions: If a player reveals 2 matching prize amounts in the same MEGA BONUS, the player wins that

amount. \$5 MILLION MEGA MONEY Play Instructions: If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy-six (76) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-six (76) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-six (76) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-six (76) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. MEGA BONUS: A non-winning Prize Symbol in a MEGA BONUS play area will never match a winning Prize Symbol in another MEGA BONUS play area.

D. MEGA BONUS: A Ticket will not have matching non-winning Prize Symbols across the MEGA BONUS play areas.

E. \$5 MILLION MEGA MONEY - Key Number Match: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

F. \$5 MILLION MEGA MONEY - Key Number Match: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

G. \$5 MILLION MEGA MONEY - Key Number Match: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$50 and 50).

H. \$5 MILLION MEGA MONEY - Key Number Match: A non-winning Prize Symbol will never match a winning Prize Symbol.

I. \$5 MILLION MEGA MONEY - Key Number Match: A Ticket may have up to six (6) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

J. \$5 MILLION MEGA MONEY - Key Number Match: The "2X" (DBL) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

K. \$5 MILLION MEGA MONEY - Key Number Match: The "5X" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

L. \$5 MILLION MEGA MONEY - Key Number Match: The "10X" (WINX10) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

M. \$5 MILLION MEGA MONEY - Key Number Match: The "20X" (WINX20) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$5 MILLION MEGA MONEY" Scratch Ticket Game prize of \$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 \$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 "\$5 MILLION MEGA MONEY" Scratch Ticket Game prize of \$1,000 or \$10,000, 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. To claim a "\$5 MILLION MEGA MONEY" Scratch Ticket Game top level prize of \$5,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas.

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 and proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). The Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service () and shall withhold federal income tax at a rate set by the 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.

D. As an alternative method of claiming a "\$5 MILLION MEGA MONEY" Scratch Ticket Game prize, including the top level prize of \$5,000,000, 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.

E. 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.

F. 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 "\$5 MILLION MEGA 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 "\$5 MILLION MEGA 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 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2641. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2641 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$50.00	750,000	8.00
\$100	600,000	10.00
\$200	250,000	24.00
\$500	115,000	52.17
\$1,000	7,500	800.00
\$10,000	150	40,000.00
\$5,000,000	4	1,500,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.48. 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. 2641 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. 2641, 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-202500723
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: February 25, 2025



Public Utility Commission of Texas

Notice of Application to Adjust High Cost Support Under 16 TAC §26.407(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on February 18, 2025, seeking

a determination of need for continued support from the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

Docket Title and Number: Petition of Blossom Telephone Company, Inc. to Adjust High-Cost Support under 16 TAC §26.407(h), Docket Number 57717.

Application: Blossom Telephone Company, Inc. requests a high-cost support adjustment increase of \$45,535 in annual high-cost support. According to Blossom Telephone Company, Inc. the requested adjustment complies with the cap of 140% of the annualized support the provider was authorized to receive in the previous 12 months ending December 31, 2023, as required by 16 Texas Administrative Code §26.407(g)(1).

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 as a deadline to intervene may be imposed. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 57717.

TRD-202500648
 Andrea Gonzalez
 Rules Coordinator
 Public Utility Commission of Texas
 Filed: February 20, 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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