

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 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

SUBCHAPTER H. CERTIFICATES OF CONVENIENCE AND NECESSITY

16 TAC §24.245, §24.257

The Public Utility Commission of Texas (commission) proposes the amendments to §24.257 relating to mapping requirements for certificate of convenience and necessity applications and §24.245 relating to revocation of a certificate of convenience and necessity or amendment of a certificate of convenience and necessity by decertification, expedited release, or streamlined expedited release. The amended rules will require an applicant to attest that it has reviewed the commission's online mapping resources—including all video files—as a necessary component of an application submission.

The commission also invites comments on the following questions:

1. Should the commission adopt remedial requirements for an applicant that fails to present adequate mapping information despite the submission of an attestation?
2. If so, what measures are appropriate? For example, should the rule require an applicant to attest to re-review of PUC mapping resources upon the commission's determination that mapping information in a previous application was deficient?

Growth Impact Statement

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

- (1) the proposed rules will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;

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

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

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

(8) the proposed rules 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 rules. 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 rules 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

Tracy Montes, Director, Mapping, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Montes has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced efficiency in processing applications that involve territorial boundaries associated with water and wastewater service. There will be no probable economic cost to persons required to comply with the rules under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed sections are 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 May 15, 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 May 15, 2025. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 57819.

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

Texas Water Code §13.041(a), which provides 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 the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction §13.242(c) which governs applications for exempt utility registration; §13.244 which governs the procedure for a utility to obtain and amend CCN application; §13.245, which governs procedures for service extensions within the boundaries or extraterritorial jurisdiction of certain municipalities by a retail public utility; §13.250 which governs a utility's application to discontinue service & cancel CCN; §13.255 which governs single certification for incorporated or annexed areas; §13.301 which governs sale, transfer, merger (STM) application; §13.2451 which governs procedures for extension of a municipalities extraterritorial jurisdiction into the service area of a retail public utility; §13.254 which authorizes the commission, after notice and hearing, to revoke or amend a CCN upon written consent of the certificate holder and governs procedures for the expedited release of an area from a CCN's service territory; §13.2541 which governs procedures for the streamlined expedited release of an area from a CCN's service territory as an alternative to decertification or expedited release under §13.254.

Cross Reference to Statute: Texas Water Code §§13.041(a) and (b); 13.242(c); 13.244; 13.250; 13.255;13.301; 13.245; 13.2451, 13.254, 13.2541.

§24.245. *Revocation of a Certificate of Convenience and Necessity or Amendment of a Certificate of Convenience and Necessity by Decertification, Expedited Release, or Streamlined Expedited Release.*

(a) - (j) (No change.)

(k) Mapping information.

(1) For proceedings under subsections (f) or (h) of this section, the following mapping information must be filed with the petition:

(A) - (B) (No change.)

(C) one of the following for the tract of land:

(i) - (ii) (No change.)

(iii) GIS [digital mapping] data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US feet) or in NAD 83 Texas Statewide Mapping System (meters). The GIS [digital mapping] data must include a single, continuous polygon record.

(D) a written and signed attestation confirming that the representative responsible for creating the mapping information has reviewed the commission's online mapping resources on the commission's CCN Mapping Resources webpage, including all video files. The attestation must be in the following format: "I, {name}, serve as {employment title} of {applicant name}. I am responsible for creating mapping information required for this application. Before submitting mapping information in conjunction with the application, I reviewed the mapping resources on the Public Utility Commission's CCN Mapping Resources webpage, including all video files."

(2) - (3) (No change.)

(l) (No change.)

§24.257. *Mapping Requirements for Certificate of Convenience and Necessity Applications.*

(a) Applications to obtain or amend a certificate of convenience and necessity (CCN) must [shall] include the following mapping information:

(1) - (2) (No change.)

(3) one of the following for the requested area:

(A) - (B) (No change.)

(C) GIS [digital mapping] data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters). The GIS [digital mapping] data must [shall] include a single, continuous polygon record; and

(4) if applicable, maps identifying any facilities for production, transmission, or distribution of services, customers, or area currently being served outside the certificated service area. Facilities must [shall] be identified on subdivision plats, engineering planning maps, or other large scale maps. Color coding may be used to distinguish the types of facilities identified. The location of any such facility must [shall] be described with such exactness that the facility can be located "on the ground" from the map and may be identified in reference to verifiable man-made and natural landmarks where necessary to show its actual location.

(5) For any application or request for relief that requires the applicant to submit mapping information in accordance with paragraphs (1) - (3) of this subsection, the applicant must also provide a written and signed attestation confirming that the representative responsible for creating the mapping information has reviewed the commission's online mapping resources on the commission's CCN Mapping Resources webpage, including all video files. The attestation must be in the following format: "I, {name}, serve as {employment title} of {applicant name}. I am responsible for creating mapping information required for this application. Before submitting mapping information in conjunction with the application, I reviewed the online mapping resources on the Public Utility Commission's CCN Mapping Resources webpage, including all video files."

(b) All maps must [shall] be filed under §22.71 of this title (relating to Filing of Pleadings, Documents and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the 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 April 3, 2025.

TRD-202501086

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 18, 2025

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



PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 61. COMBATIVE SPORTS

16 TAC §61.43, §61.109

The Texas Department of Licensing and Regulation (Department) proposes an amendment to an existing rule at 16 Texas Administrative Code (TAC), Chapter 61, §61.43; and a new rule at §61.109, regarding the Combative Sports program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 61, implement Texas Occupations Code, Chapter 2052, Combative Sports.

The proposed rules add regulations for the combative sport discipline of bare-knuckle boxing. The proposed rules outline and describe parameters and conditions under which contestants are evaluated and approved and by which bare-knuckle boxing contests will be officiated, judged, and decided. The proposed rules identify prohibited actions that could result in disciplinary measures being taken against the contestant by the referee and Department. Finally, the proposed rules allow for the use of instant replay technology in defined circumstances to confirm a contest decision. The proposed rules are necessary to regulate the discipline of bare-knuckle boxing in Texas.

The proposed rules also correct a typographical error in the concentration of adrenaline approved for use in a contestant's corner.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §61.43(i)(1), correcting a typographical error in the concentration of adrenaline approved for use during a contest.

The proposed rules add §61.109(a), stating that all rules apply to bare-knuckle boxing except §§61.106(c) - (f), 61.107, 61.108, and 61.110-61.112. If there is any conflict between §61.109 and other rule language, §61.109 controls.

The proposed rules add §61.109(b), stating that amateur contestants are not allowed to participate in bare-knuckle boxing contests.

The proposed rules add §61.109(c), identifying the maximum number of rounds and minutes of competition for both males and females.

The proposed rules add §61.109(d), describing how the hands of contestants shall be wrapped and identifying prohibited actions during the wrapping of contestants' hands.

The proposed rules add §61.109(e), describing how contestants may dress for a contest and identifying what protective gear must be worn. Contestants' hair must be secured in a manner that does not affect either contestant.

The proposed rules add §61.109(f), stating that contests will be scored by three judges on a ten-point "must" system.

The proposed rules add §61.109(g), defining the possible outcomes of a contest and describing the specific decisions that will be declared in certain circumstances.

The proposed rules add §61.109(h), describing the technique that is permitted in this combative sport discipline.

The proposed rules add §61.109(i), listing illegal actions which can lead to negative consequences both in the contest and after administrative action by the Department.

The proposed rules add §61.109(j), instituting the use of instant replay technology for this discipline, how it can be used, in what circumstances it may be used, and what decisions can result from its use.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there will be additional costs to the State of \$8,800.00 per year.

TDLR contracts with third-party individuals to serve as inspectors at each event. The average number of inspectors contracted for each event of the size expected for bare-knuckle boxing events is 10, at an average cost of \$222 per contractor per event. It is anticipated there will be an average of four bare-knuckle boxing events per year for the first five years.

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there will be increases in revenue to the State of \$121,300 per year.

It is anticipated at this time that there will be four bare-knuckle boxing events conducted in Texas or broadcast each year of the first five years that will generate the maximum gross receipts tax a promoter must submit to the State for the event, which is \$30,000 per event. It is believed there could be additional local events each year, but this number cannot currently be determined.

It is estimated that there would be approximately 20 new contestant license holders at the first bare-knuckle boxing event, and approximately 15 new contestant license holders for each subsequent event, for a total of 65 contestants in the first year and a similar number of additional contestants in each subsequent year. The number of contestants is not expected to increase significantly in any year since the overall average number of contestant licenses issued in combative sports stays somewhat consistent year-to-year. The application fee for a contestant license is \$20 for a new or renewal license. Therefore, the additional revenue from licenses issued in the first year would be \$1,300 in each of the first five years the proposed rules are in effect.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administer-

ing the proposed rules does not have foreseeable implications relating to costs or revenues of local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be ensuring the integrity and safety of bare-knuckle boxing events while allowing this rapidly growing discipline to stage events in Texas. The public will also benefit from the additional gross receipt taxes generated from these events, which will add to the state's general revenue fund.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules create a new regulation. The proposed rules add bare-knuckle boxing as a combative sports discipline

to be regulated by the Department and create standards for the conduct of bare-knuckle boxing events.

6. The proposed rules do not expand, limit, or repeal an existing regulation.

7. The proposed rules increase or decrease the number of individuals subject to the rules' applicability. The proposed rules increase the number of individuals subject to its applicability by recognizing bare-knuckle boxing as a combative sports discipline. The creation of this new regulation will apply to any additional persons who participate in bare-knuckle boxing.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENTS

Comments on the proposed rules may be submitted electronically on the Department's website at: <https://ga.tdlr.texas.gov:1443/form/gcerules>; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2052, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2052. No other statutes, articles, or codes are affected by the proposed rules.

§61.43. Responsibilities of Seconds.

(a) - (h) (No change.)

(i) The following rules apply to corner supplies:

(1) Approved supplies are ice, which must be in an ice bag or Department approved container, water, cotton swabs, gauze pads, clean towels, Adrenalin 1:1,000 [1:10,000], Avitene, Thromblin, petroleum jelly or other surgical lubricant, medical diachylon tape, Enswel, and electrolytes. Electrolytes must be brought to the ring in the manufacturer's sealed container. Electrolytes must be opened for the first time in the presence of a representative of the Department. All coagulants shall be in a container with the proper manufacturer's label and not contaminated by any foreign substance.

(2) All containers shall be properly labeled with the manufacturer's label and not contaminated by any foreign substance.

(3) The use of an unapproved substance may result in disciplinary action.

(4) Only water and electrolytes shall be permitted for hydration of a contestant between rounds. Honey, glucose, or sugar, or any other substance may not be mixed with the water.

(5) Excessive use of any lubricant on the contestant's body, arms or face is prohibited.

(j) - (k) (No change.)

§61.109. Bare-Knuckle Boxing.

(a) All rules in this chapter apply to the combative sport of bare-knuckle boxing except §§61.106(c) - (f), 61.107, 61.108, and 61.110-61.112. If any language in this section conflicts with another rule in this chapter, this section prevails.

(b) Amateur contestants prohibited. Amateur contestants may not participate in bare-knuckle boxing contests.

(c) Contest and round parameters. Bare-knuckle boxing contests shall be limited to six rounds and 18 minutes of competition. Contestants shall be provided a one-minute rest period between each non-final round, which does not count towards the 18-minute limit.

(1) Contests between males shall have rounds of no more than three minutes. Contests between females shall have rounds of no more than two minutes.

(2) Contests featuring a contestant making their professional debut shall be restricted to four two-minute rounds.

(d) Hand wraps. Hand wraps for contestants shall include the wrist and are restricted to 12 yards of soft gauze bandage per hand, no more than two inches in width, held in place by no more than 10 yards of surgical tape, no more than one inch in width. Surgical tape may not be applied within one inch of the knuckles. The use of any liquid or material on the tape is prohibited.

(1) No tape or gauze is allowed on or between the contestant's fingers, with the exception of the thumb.

(A) The thumb of a contestant may include a single wrap of tape when the wrist is being wrapped.

(B) Wrapping of the wrist shall not extend more than three inches past the wrist juncture.

(2) Hand wraps shall be applied in the dressing room in the presence of a department representative.

(3) Other than the contestant's hands, there must be no taping, covering, or protective gear of any kind on the upper body. This includes but is not limited to joint sleeves, padding, any form of a brace, or body gauze/tape.

(e) Contestant dress and appearance. Contestants must wear protective gear as deemed necessary by the department. All contestants must appear in appropriate dress.

(1) Male contestants must not wear any form of clothing on their upper body. Male contestants must also wear appropriate groin protection.

(2) Female contestants must wear an appropriate sports bra and may wear a short-sleeved or sleeveless form-fitting rash guard. Breast protectors are optional. Loose-fitting tops are prohibited.

(3) All contestants must wear appropriate shorts, boxing or wrestling shoes, and a fitted mouthpiece approved by the department.

(4) When deemed necessary by the referee, contestants with long hair must secure their hair in a manner that does not hinder vision or interfere with either contestant's ability to compete fairly.

(5) A contestant may use soft neoprene-type sleeves to cover only the knees. Approved sleeves may not have padding, Velcro, plastic, metal, ties, or any other material considered unsafe or that may create an unfair advantage.

(f) Scoring. All contests shall be evaluated and scored by three judges. Contests will be scored using the ten-point must system to determine the winner.

(g) Decisions.

(1) Contestants may prevail by technical knockout, knockout, disqualification, or a judges' decision.

(2) The timekeeper shall not ring the bell during the referee's count, and the referee must continue the count until the contestant rises or is counted out. Once the referee ends the count and determines the contestant is fit to continue, the timekeeper may ring the bell to signal the end of the round.

(3) A contest shall be declared a no contest if stopped due to an injury caused by an accidental foul before the end of:

(A) Two completed rounds of a scheduled three-round contest;

(B) Two completed rounds of a scheduled four-round contest;

(C) Three completed rounds of a scheduled five-round contest; or

(D) Three completed rounds of a scheduled six-round contest.

(4) If, after completion of the round specified in subsection (g)(3)(A) - (D), a contest is stopped due to a contestant being injured by an unintentional foul, or due to the worsening of an injury caused by a previous unintentional foul, all completed and partial rounds will be scored. The contestant ahead on points shall be declared the winner by technical decision.

(5) If, after completion of the round specified in subsection (g)(3)(A) - (D), a contest is stopped due to a contestant being injured by an intentional foul, or due to the worsening of an injury caused by a previous intentional foul, all completed and partial rounds will be scored, and:

(A) The injured contestant will win by technical decision if ahead on points; or

(B) The contest will result in a technical draw if the injured contestant is behind on points.

(6) If the contestant injures themselves while attempting to foul their opponent intentionally, the referee will not take any action in their favor, and this injury shall be considered the same as an injury produced by a fair blow. If the referee determines that a contestant has acted in an unsportsmanlike manner, the referee may stop the contest and disqualify the contestant.

(7) A draw shall be called if each official votes differently or any two vote a draw.

(h) Legal technique. The only fighting technique permitted is that of a bare-knuckle strike with a clenched fist. Contestants may fight in the clinch and make any legal strike while holding their opponent by the back of the neck or head in a downward position to any legal strike zone.

(i) Prohibited actions. The following tactics are fouls and are forbidden. Using these tactics may result in a warning, loss of points as

determined by the referee, disqualification, forfeiture, and an administrative penalty, sanction, or both.

- (1) Hitting the opponent below the belt.
- (2) Hitting an opponent who is down or is getting up after being down.
- (3) Deliberately maintaining a clinch without other action.
- (4) Wrestling or kicking the opponent.
- (5) Putting a finger into any orifice of the opponent or into any cut or laceration on an opponent, including fish-hooking.
- (6) Pulling the opponent's hair.
- (7) Manipulating the opponent's fingers.
- (8) Striking an opponent who is helpless as the result of blows but is supported by the ropes and does not fall.
- (9) Butting the opponent with the head, shoulder, knee, or elbow.
- (10) Hitting the opponent with the elbow or forearm.
- (11) Striking the opponent's body over the kidneys.
- (12) Hitting the opponent on the back of the head or neck.
- (13) Gouging the opponent's eye in any manner.
- (14) Hitting during a break, which is signaled by the referee's command or physical act to separate the contestants.
- (15) Hitting the opponent after the bell has sounded, ending the round.
- (16) Using the ropes or cage to gain an advantage over the opponent.
- (17) Pushing the opponent around the fighting area or into the ropes/cage.
- (18) Timidity, excessive clinching, including intentionally spitting out the mouthpiece, running from an opponent, or other similar behavior.
- (19) Biting the opponent.
- (20) Headlocks.
- (21) Throat punches or strikes directly toward the throat of an opponent.
- (22) Fingers outstretched toward an opponent's face or eyes.
- (23) Throws or takedowns.
- (24) Spinning back fists.
- (25) Hammer-fists.
- (26) Engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.
 - (j) Instant replay. Instant replay may be used if the promoter and department have agreed in writing before the event, and the promoter provides all necessary instant replay equipment. The use of instant replay shall be limited to the following:
 - (1) Only the referee may determine if the use of instant replay is appropriate.

(2) Before the decision is announced, the referee may use instant replay to conclusively determine whether a foul caused or contributed to the conclusion of the contest.

(3) The review process is authorized and can be conducted by any individual designated by the department.

(4) Based on the instant replay review, the referee shall make the final call with respect to the contest that could result in one of the following decisions:

- (A) Winner of the contest by stoppage;
- (B) No contest or no decision determination;
- (C) Disqualification;
- (D) Technical decision; or
- (E) Technical draw.

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 April 7, 2025.

TRD-202501098

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: May 18, 2025

For further information, please call: (512) 463-7750



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1001

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §97.1001 is not included in the print version of the Texas Register. The figure is available in the on-line version of the April 18, 2025, issue of the Texas Register.)

The Texas Education Agency (TEA) proposes an amendment to §97.1001, concerning the accountability rating system. The proposed amendment would adopt in rule applicable excerpts of the *2026 Accountability Manual*. Earlier versions of the manual will remain in effect with respect to the school years for which they were developed.

BACKGROUND INFORMATION AND JUSTIFICATION: TEA has adopted its academic accountability manual in rule since 2000 under §97.1001. The accountability system evolves from year to year, so the criteria and standards for rating and acknowledging schools in the most current year differ to some degree from those applied in the prior year.

The proposed amendment to §97.1001 would adopt excerpts of the *2026 Accountability Manual* into rule as a figure. The ex-

cerpts, Chapters 1-12 of the *2026 Accountability Manual*, specify the indicators, standards, and procedures used by the commissioner to determine accountability ratings for districts, campuses, and charter schools. These chapters also specify indicators, standards, and procedures used to determine distinction designations on additional indicators for Texas public school campuses and districts. Chapter 12 describes the specific criteria and calculations that will be used to assign 2026 Results Driven Accountability (RDA) performance levels. Ratings may be revised as a result of investigative activities by the commissioner as authorized under Texas Education Code, §39.056 and §39.003.

Following is a chapter-by-chapter summary of the changes for this year's manual. In every chapter, dates and years for which data are considered would be updated to align with 2026 accountability and RDA. Edits for clarity regarding consistent language and terminology throughout each chapter are embedded within the proposed *2026 Accountability Manual*. For example, references to the Public Education Information Management System (PEIMS) October submission would be changed to the PEIMS Fall submission throughout the manual.

Chapter 1 gives an overview of the entire accountability system. Language in the Who is Rated section would be adjusted to clarify membership. One reason for being *Not Rated* would be added back into the manual for clarity. Language would be adjusted to add clarity to the Accountability Subset Rule section and the STAAR EOC Retest Performance section.

Chapter 2 describes the "Student Achievement" domain. Emergent bilingual (EB) student coding would be moved to Appendix H--Data Sources instead of being listed in the STAAR Component--Inclusion of EB Students section. A new section regarding Inclusion of STAAR English Learner Performance Measure Results would be added. Language in the College, Career, and Military Readiness Component section would be adjusted to provide clarity regarding college prep courses. A table would be added regarding CCMR credit requirements in the Schedule for Reviewed and Approved College Prep Courses section. Calculation language would be clarified in the Graduation Rate--Minimum Size Criteria and Small Numbers Analysis and the Annual Dropout Rate--Minimum Size Criteria and Small Numbers Analysis sections.

Chapter 3 describes the "School Progress" domain. EB student coding would be moved to Appendix H--Data Sources instead of being listed in the Part A: Academic Growth--Inclusion of EB Students, Part B: Relative Performance--Inclusion of EB Students, and AEA Part B: Retest Growth--Inclusion of EB Students sections.

Chapter 4 describes the "Closing the Gaps" domain. Language regarding minimum size would be moved to the Two Lowest Performing Racial/Ethnic Groups from the Prior Year and the Steps to Determine the Two Lowest Performing Groups sections. EB student coding would be moved to Appendix H--Data Sources instead of being listed in the Inclusion of EB students section. Calculation language would be clarified in the Federal Graduation Status--Minimum Size Criteria and Small Numbers Analysis All Students section. Language would be updated to reflect the new methodology for measuring TELPAS progress in the Progress in Achieving English Language Proficiency Component section.

Chapter 5 describes how the overall ratings are calculated. Language would be added for clarity in the District Proportional Domain Methodology section.

Chapter 6 describes distinction designations. Language would be added to the Other Information section.

Chapter 7 describes the pairing process and the alternative education accountability (AEA) provisions. No edits beyond the technical edits described previously would be made.

Chapter 8 describes the process for appealing ratings. No edits beyond the technical edits described previously would be made.

Chapter 9 describes the responsibilities of TEA, the responsibilities of school districts and open-enrollment charter schools, and the consequences to school districts and open-enrollment charter schools related to accountability and interventions. Language regarding *Not Rated* would be removed from the Actions Required Due to Low Ratings or Low Accreditation Status section.

Chapter 10 provides information on the federally required identification of schools for improvement. No edits beyond the technical edits described previously would be made.

Chapter 11 describes the local accountability system. No edits beyond the technical edits described previously would be made.

Chapter 12 describes the RDA system. Language would be clarified in the Principle 2: Drives Improved Results and High Expectations section. Language in the 2026 RDA Changes section would be rewritten. Language would be adjusted for clarity in the RDA PL Assignments for Program Area Determinations section.

FISCAL IMPACT: Iris Tian, deputy commissioner of analytics, assessment, and reporting, 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 limit an existing regulation due to its effect on school accountability for 2026.

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 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: Ms. Tian 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 continue to inform the public of the existence of annual manuals specifying rating procedures for public schools by including this rule in the *Texas Administrative Code*. 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 April 18, 2025, and ends May 19, 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 April 18, 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 amendment is proposed under Texas Education Code (TEC), §7.021(b)(1), which authorizes the Texas Education Agency (TEA) to administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs; TEC, §7.028, which authorizes TEA to monitor as necessary to ensure school district and charter school compliance with federal law and regulations, financial integrity, and data integrity and authorizes the agency to monitor school district and charter schools through its investigative process. TEC, §7.028(a), authorizes TEA to monitor special education programs for compliance with state and federal laws; TEC, §12.056, which requires that a campus or program for which a charter is granted under TEC, Chapter 12, Subchapter C, is subject to any prohibition relating to the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter C, as determined by the commissioner; high school graduation under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; and public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, and J, and Chapter 39A; TEC, §12.104, which states that a charter granted under TEC, Chapter 12, Subchapter D, is subject to a prohibition, restriction, or requirement, as applicable, imposed by TEC, Title 2, or a rule adopted under TEC, Title 2, relating to PEIMS to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter D, as determined by the commissioner; high school graduation requirements under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; discipline management practices or behavior management techniques under TEC, §37.0021; public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and Chapter 39A; and intensive programs of instruction under TEC, §28.0213;

TEC, §29.001, which authorizes TEA to effectively monitor all local educational agencies (LEAs) to ensure that rules relating to the delivery of services to children with disabilities are applied in a consistent and uniform manner, to ensure that LEAs are complying with those rules, and to ensure that specific reports filed by LEAs are accurate and complete; TEC, §29.0011(b), which authorizes TEA to meet the requirements under (1) 20 U.S.C. §1418(d) and its implementing regulations to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and in the school districts and open-enrollment charter schools in the state with respect to the (a) identification of children as children with disabilities, including the identification of children as children with particular impairments; (b) placement of children with disabilities in particular educational settings; and (c) incidence, duration, and type of disciplinary actions taken against children with disabilities including suspensions or expulsions; or (2) 20 U.S.C. §1416(a)(3)(C) and its implementing regulations to address in the statewide plan the percentage of schools with disproportionate representation of racial and ethnic groups in special education and related services and in specific disability categories that results from inappropriate identification; TEC, §29.010(a), which authorizes TEA to adopt and implement a comprehensive system for monitoring LEA compliance with federal and state laws relating to special education, including ongoing analysis of LEA special education data; TEC, §29.062, which authorizes TEA to evaluate and monitor the effectiveness of LEA programs and apply sanctions concerning emergent bilingual students; TEC, §29.066, which authorizes PEIMS reporting requirements for school districts that are required to offer bilingual education or special language programs to include the following information in the district's PEIMS report (1) demographic information, as determined by the commissioner, on students enrolled in district bilingual education or special language programs; (2) the number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and (3) the number and percentage of emergent bilingual students who do not receive specialized instruction; TEC, §29.081(e), (e-1), and (e-2), which define criteria for alternative education programs for students at risk of dropping out of school and subjects those campuses to the performance indicators and accountability standards adopted for alternative education programs; TEC, §29.201 and §29.202, which describe the Public Education Grant (PEG) program and eligibility requirements; TEC, §39.003 and §39.004, which authorize the commissioner to adopt procedures relating to special investigations. TEC, §39.003(d), allows the commissioner to take appropriate action under Chapter 39A, to lower the district's accreditation status or the district's or campus's accountability rating based on the results of the special investigation; TEC, §39.051 and §39.052, which authorize the commissioner to determine criteria for accreditation statuses and to determine the accreditation status of each school district and open-enrollment charter school; TEC, §39.053, which authorizes the commissioner to adopt a set of indicators of the quality of learning and achievement and requires the commissioner to periodically review the indicators for consideration of appropriate revisions; TEC, §39.054, which requires the commissioner to adopt rules to evaluate school district and campus performance and to assign a performance rating; TEC, §39.0541, which authorizes the commissioner to adopt indicators and standards under TEC, Chapter 39, Subchapter C, at any time during a school year before the evaluation of a school district or campus; TEC, §39.0543, which

describes acceptable and unacceptable performance as referenced in law; TEC, §39.0546, which requires the commissioner to assign a school district or campus a rating of "Not Rated" for the 2021-2022 school year, unless, after reviewing the district or campus under the methods and standards adopted under TEC, §39.054, the commissioner determines the district or campus should be assigned an overall performance rating of C or higher; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.056, which authorizes the commissioner to adopt procedures relating to monitoring reviews and special investigations; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §39A.001, which authorizes the commissioner to take any of the actions authorized by TEC, Chapter 39, Subchapter A, to the extent the commissioner determines necessary if a school does not satisfy the academic performance standards under TEC, §39.053 or §39.054, or based upon a special investigation; TEC, §39A.002, which authorizes the commissioner to take certain actions if a school district becomes subject to commissioner action under TEC, §39A.001; TEC, §39A.004, which authorizes the commissioner to appoint a board of managers to exercise the powers and duties of a school district's board of trustees if the district is subject to commissioner action under TEC, §39A.001, and has a current accreditation status of accredited-warned or accredited-probation; or fails to satisfy any standard under TEC, §39.054(e); or fails to satisfy any financial accountability standard; TEC, §39A.005, which authorizes the commissioner to revoke school accreditation if the district is subject to TEC, §39A.001, and for two consecutive school years has received an accreditation status of accredited-warned or accredited-probation, failed to satisfy any standard under TEC, §39.054(e), or failed to satisfy a financial performance standard; TEC, §39A.007, which authorizes the commissioner to impose a sanction designed to improve high school completion rates if the district has failed to satisfy any standard under TEC, §39.054(e), due to high school completion rates; TEC, §39A.051, which authorizes the commissioner to take action based on campus performance that is below any standard under TEC, §39.054(e); and TEC, §39A.063, which authorizes the commissioner to accept substantially similar intervention measures as required by federal accountability measures in compliance with TEC, Chapter 39A.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§7.021(b)(1); 7.028; 12.056; 12.104; 29.001; 29.0011(b); 29.010(a); 29.062; 29.066; 29.081(e), (e-1), and (e-2); 29.201; 29.202; 39.003; 39.004; 39.051; 39.052; 39.053; 39.054; 39.0541; 39.0543; 39.0546; 39.0548; 39.055; 39.056; 39.151; 39.201; 39.2011; 39.202; 39.203; 39A.001; 39A.002; 39A.004; 39A.005; 39A.007; 39A.051; and 39A.063.

§97.1001. *Accountability Rating System.*

(a) The rating standards established by the commissioner of education under Texas Education Code (TEC), §§39.052(a) and (b)(1)(A); 39.053; 39.054; 39.0541; 39.0548; 39.055; 39.151; 39.201; 39.2011; 39.202; 39.203; 29.081(e), (e-1), and (e-2); and 12.104(b)(2)(L), shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine ratings will be annually published in official Texas Education Agency publications. These publications will be widely disseminated and cover the following:

- (1) indicators, standards, and procedures used to determine district ratings;
- (2) indicators, standards, and procedures used to determine campus ratings;
- (3) indicators, standards, and procedures used to determine distinction designations; and
- (4) procedures for submitting a rating appeal.

(b) The procedures by which districts, campuses, and charter schools are rated and acknowledged for 2026 [2025] are based upon specific criteria and calculations, which are described in excerpted sections of the 2026 [2025] *Accountability Manual* provided in this subsection.

Figure: 19 TAC §97.1001(b)
[Figure: 19 TAC §97.1001(b)]

(c) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.003.

(d) The specific criteria and calculations used in the accountability manual are established annually by the commissioner and communicated to all school districts and charter schools.

(e) The specific criteria and calculations used in the annual accountability manual adopted for prior school years remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.

(f) In accordance with TEC, §7.028(a), the purpose of the Results Driven Accountability (RDA) framework is to evaluate and report annually on the performance of school districts and charter schools for certain populations of students included in selected program areas. The performance of a school district or charter school is included in the RDA report through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner.

(g) The assignment of performance levels for school districts and charter schools in the 2026 [2025] RDA report is based on specific criteria and calculations, which are described in the 2026 [2025] *Accountability Manual* provided in subsection (b) of this section.

(h) The specific criteria and calculations used in the RDA framework are established annually by the commissioner and communicated to all school districts and charter schools.

(i) The specific criteria and calculations used in the annual RDA manual adopted for prior school years remain in effect for all purposes, including accountability and performance monitoring, data standards, and audits, with respect to those school years.

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 April 7, 2025.

TRD-202501093



CHAPTER 101. ASSESSMENT

SUBCHAPTER DD. COMMISSIONER'S RULES CONCERNING SUBSTITUTE ASSESSMENTS FOR GRADUATION

19 TAC §101.4002

The Texas Education Agency (TEA) proposes an amendment to §101.4002, concerning State of Texas Assessments of Academic Readiness (STAAR®) end-of-course assessments. The proposed amendment would update the list of approved substitute assessments to include the addition of the PreACT 8/9 and the PreACT assessments.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 101.4002 specifies the assessments the commissioner of education recommends as substitute assessments that a student may use to meet end-of-course assessment graduation requirements and establishes the satisfactory scores needed for graduation purposes. The proposed amendment would update the rule text in subsection (f) to include the PreACT assessments in place of the PLAN and Aspire assessments, which are no longer administered.

In addition, the figure in subsection (b) would be updated to include the PreACT 8/9 and the PreACT assessments with associated substitute assessment scores. The order of assessments listed in the figure would be adjusted to display the current assessments first followed by the previous assessments. Finally, the order of the footnotes would be adjusted to align with the new order of the assessments, and the text of the footnotes would be amended for consistency where appropriate.

This amendment would provide students, parents, and school district staff with the most up-to-date information regarding substitute assessments that may be used to satisfy graduation assessment requirements.

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation and increase the number of individuals subject to the rule's applicability due to the addition of the PreACT 8/9 and the PreACT assessments to the list of approved substitute assessments.

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

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Tian 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 provide additional opportunities for students to meet graduation requirements. 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 April 18, 2025, and ends May 19, 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 April 18, 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 amendment is proposed under Texas Education Code (TEC), §39.023(c), which requires the agency to adopt end-of-course (EOC) assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history; and TEC, §39.025, which establishes the secondary-level performance required to receive a Texas high school diploma. TEC, §39.025(a), requires the commissioner of education to adopt rules requiring students to achieve satisfactory performance on each EOC assessment listed under TEC, §39.023(c), to receive a Texas high school diploma. TEC, §39.025(a-1), (a-2), and (a-3), allow for the use of specific substitute assessments to satisfy the EOC assessment graduation requirements under certain conditions.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §39.023 and §39.025.

§101.4002. *State of Texas Assessments of Academic Readiness End-of-Course Substitute Assessments.*

(a) For purposes of this subchapter, "equivalent course" is defined as a course having sufficient content overlap with the essential knowledge and skills of a similar course in the same content area listed under §74.1(b)(1)-(4) of this title (relating to Essential Knowledge and Skills).

(b) Effective beginning with the 2011-2012 school year, in accordance with Texas Education Code (TEC), §39.025(a-1), (a-2), and (a-3), the commissioner of education adopts certain assessments as provided in the chart in this subsection as substitute assessments that a student may use in place of a corresponding end-of-course (EOC) assessment under TEC, §39.023(c), to meet the student's assessment graduation requirements. A satisfactory score on an approved substitute assessment may be used in place of only one specific EOC assessment, except in those cases described by subsection (d)(1) of this section.

Figure: 19 TAC §101.4002(b)
[Figure: 19 TAC §101.4002(b)]

(c) A student at any grade level is eligible to use a substitute assessment as provided in the chart in subsection (b) of this section if:

(1) a student was administered an approved substitute assessment for an equivalent course in which the student was enrolled;

(2) a student received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart in subsection (b) of this section; and

(3) a student using a Texas Success Initiative Assessment (TSIA) or a Texas Success Initiative Assessment, Version 2.0 (TSIA2) also meets the requirements of subsection (d) of this section.

(d) Effective beginning with the 2014-2015 school year, a student must meet criteria established in paragraph (1) or (2) of this subsection in order to qualify to use TSIA or TSIA2 as a substitute assessment.

(1) A student must have been enrolled in a college preparatory course for English language arts (PEIMS code CP110100) or mathematics (PEIMS code CP111200) and, in accordance with TEC, §39.025(a-1), have been administered an appropriate TSIA or TSIA2 at the end of that course.

(A) A student under this paragraph who meets all three TSIA or both TSIA2 English language arts score requirements provided in the figure in subsection (b) of this section satisfies both the English I and English II EOC assessment graduation requirements.

(B) A student under this paragraph may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.

(2) In accordance with TEC, §39.025(a-3), a student who has not been successful on the Algebra I or English II EOC assessment after taking the assessment at least two times may use the corresponding TSIA or TSIA2 in place of that EOC assessment. For a student under this paragraph who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in §101.3022(b) of this title (relating to Assessment Requirements for Graduation), the separate reading or writing TSIA may not be used to substitute for the corresponding English II reading or writing EOC assessment.

(c) A student electing to substitute an assessment for graduation purposes must still take the corresponding EOC assessment required under TEC, §39.023(c), at least once for federal accountability

purposes. If a student sits for an EOC assessment, a school district may not void or invalidate the test in lieu of a substitute assessment.

(f) A student who fails to perform satisfactorily on a PSAT [; PLAN;] or PreACT [Aspire] test (or any versions of these tests) as indicated in the chart in subsection (b) of this section must take the appropriate EOC assessment required under TEC, §39.023(c). However, a student who does not receive a passing score on the EOC assessment and retakes a PSAT [; PLAN;] or PreACT [Aspire] test (or any versions of these tests) is eligible to meet the requirements specified in subsection (c) of this section.

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

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

TRD-202501095

Cristina De La Fuente Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: May 18, 2025

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

31 TAC §53.13

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §53.13, concerning Business Licenses and Permits (Fishing). The proposed amendment would reduce the annual fees for both types of Cultivated Oyster Mariculture (COM) permits issued by the department. The amendment is intended to encourage the development and maturation of a commercially viable oyster mariculture industry that could provide relief to native natural oyster reefs and associated ecosystems.

The 86th Texas Legislature in 2019 enacted House Bill 1300, which added new Chapter 75 to the Texas Parks and Wildlife Code and delegated to the Parks and Wildlife Commission the authority to regulate the process of growing oysters in captivity. In turn, the Texas Parks and Wildlife Commission in 2020 adopted regulations governing oyster mariculture (45 TexReg 5916), which included various fees.

At the direction of the commission, the department has reviewed all department data relative to the costs of implementation and operation of the COM program, similar fees for oyster mariculture in other Gulf states, cooperated extensively with the regulated community, and determined that a reduction in fees could result in more rapid maturation of the industry in Texas and the realization of attendant resource and ecosystem benefits. The department notes that the Texas General Land Office (GLO) recently reduced surface lease fees for COM operations. In 2024,

the GLO lease fee was reduced to \$500 per acre per year from \$1,500 per acre per year.

In Fiscal Year (FY) 2024, the average fee for a COM Grow-Out permit was \$3,495.46 (range \$900 - \$13,500 per year) and for a Nursery-Hatchery it was \$1,805.55 (range \$79.05 - \$3,943.69 per year) (fees are dependent on the acreage of the operation and thus vary from permit to permit).

With respect to an analysis of similar fees in other states, the department concludes that while fee structures vary from state to state, in the states of the Gulf region Texas appears to have the highest fees for oyster mariculture operations. Mississippi and Florida charge an annual flat fee of \$50 and \$100, respectively. Louisiana requires cultivated oyster operators to have a commercial fishing license (\$100) and harvester license (\$96), in addition to which a fee of \$2 per-acre-per-year is imposed. Alabama charges a \$300 per-acre easement fee. The current Texas rate for a Grow-Out facility is \$450 per acre. Staff has determined that a rate reduction of approximately two-thirds would make Texas rates more comparable to other states. The proposed amendment would therefore alter subsection (d) to reflect the reduction in fees and to update permit types to accurately reflect the terminology employed in the regulations contained in Chapter 58, Subchapter D, that regulate COM operations.

With respect to the COM Grow-Out Permit, the fee for any portion of a site located in public water would be reduced to \$150 per-acre-per-year from \$450 per-acre-per-year and the fee for any portion of a site on private property would be reduced to \$57 per-acre-per-year from \$170 per-acre-per-year.

With respect to fees for the COM Nursery-Hatchery Permit, the current fee is \$170 per-acre-per-year, with a \$0.010 per-square-foot-per-year surcharge for the portion of a site in public water, and \$170 per-acre-per-year for the portion of a site located on private land. The proposed amendment would reduce the public water fee to \$150 per-acre-per-year and the private land fee to \$57 per-acre-per-year, or a minimum fee of \$150 per year, whichever is greater. The minimum fee is necessary to recoup costs incurred by the department to conduct required annual inspections, as some Nursery-Hatchery operations occupy much less than an acre but still require a site inspection.

Dr. Lindsay Glass Campbell, Policy and Education, Cultivated Oyster Mariculture Program Coordinator, Coastal Fisheries Division, has determined that for each of the first five years that the rule as proposed is in effect, there will be fiscal implications to the department a result of administering or enforcing the rule as proposed. The department estimates that there will be a revenue reduction of approximately \$32,276.63 per year resulting from the fee reductions, assuming the number of permits issued remains unchanged (the department has no method for predicting how many additional permits might be issued in the future). This estimate was derived by taking the total fee amounts collected in FY2024 (\$48,183.32) and subtracting from that value the amount of fee revenue that would have been realized had the proposed fees been in effect for that fiscal year (\$15,906.69). The department has determined that because of the low number of permits currently issued, the rules as proposed can be effectively administered and enforced using existing personnel as part of their current duties under existing budgets; however, there could be additional fiscal implications to the department if permit demand increases significantly.

There will be no fiscal implications to other units of state or local governments as a result of administering or enforcing the rule.

The rules will not result in adverse economic impacts to persons required to comply with the rule as proposed.

Dr. Campbell also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the enhancement and further development of a growing industry, the ecological benefits provided by oysters in public waters, the possible reduction of harvest pressure on natural oyster reefs, and the production of oysters for public consumption.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

To ensure that this analysis captures every small or microbusiness affected by the proposed rule, the department assumes that most, if not all persons who hold a COM permit qualify as small or microbusinesses. Department data indicate that there are currently 19 fully permitted and 38 conditionally approved cultivated oyster mariculture sites.

The department has determined that because the rule as proposed would reduce the fee amounts currently in effect by approximately two-thirds, the rule will not result in direct adverse economic impacts to small businesses, microbusinesses, or rural communities; therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not exert a direct economic impact on local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; affect the amount of a fee (by reducing annual fees for COM permits); not create a new regulation, but modify existing regulations; not expand an existing regulation; neither increase nor decrease the number of

individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Dr. Lindsay Glass Campbell (Coastal Fisheries), at (512) 389-8575 (email: cfish@tpwd.texas.gov). Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/

The amendment is proposed under the authority of Parks and Wildlife Code, §75.0103, which requires the commission to adopt rules to establish a program governing cultivated oyster mariculture, which may establish requirements for the taking, possession, transport, movement, and sale of cultivated oysters; the taking, possession, transport, and movement of broodstock oysters; fees and conditions for use of public resources, including broodstock oysters and public water, and any other matter necessary to implement and administer Parks and Wildlife Code, Chapter 75.

The proposed amendment affects Parks and Wildlife Code, Chapter 75.

§53.13. *Business License and Permits (Fishing).*

(a) - (c) (No change.)

(d) Cultivated Oyster Mariculture Fees.

(1) Application fee--\$200.

(2) Cultivated Oyster Mariculture Grow-Out Permit ~~[(COMP)]~~.

(A) Portion of site [~~For a COMP~~] located in public water--\$150 [~~\$450~~] per acre per year.

(B) Portion of site [~~For a COMP~~] located on private property--\$57 [~~\$170~~] per acre per year.

(3) Cultivated Oyster Mariculture Nursery-Hatchery Permit: the greater of [- Nursery Only (nursery permit)--\$170 per acre per year, \$0.010 per square foot per year, if the nursery facility is located in public water.]

(A) \$150 per year; or

(B) the total of \$150 per acre per year for portion of site in public water and \$57 per acre per year for portion of site on private property.

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 April 7, 2025.

TRD-202501097

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 18, 2025

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



CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

SUBCHAPTER E. CULTIVATED OYSTER MARICULTURE

31 TAC §58.353

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §58.353, concerning Cultivated Oyster Mariculture (COM). The amendment would allow for expanded triploid seed sourcing opportunities for oyster mariculture permittees.

The 86th Texas Legislature in 2019 enacted House Bill 1300, which added new Chapter 75 to the Texas Parks and Wildlife Code and delegated to the Parks and Wildlife Commission the authority to regulate the process of growing oysters in captivity. In turn, the Texas Parks and Wildlife Commission in 2020 adopted regulations to implement an oyster mariculture program (45 TexReg 5916).

At the direction of the commission, the department has reviewed regulations regarding permissible genetic origins of triploid oyster seed for use in mariculture. The department considered current scientific information, the current biosecurity and genetic integrity protocols used in the program, and feedback from the regulated community regarding seed supply. Given that the genetic population structure of the northern Gulf stock of the Eastern oyster (*Crassostrea virginica*) is shared with oysters from the northern portion of the Texas coast, the department has determined that regulations regarding broodstock origin for triploid oysters can be altered to include the entire northern Gulf stock without significant risk to wild Texas oyster populations. The northern Gulf stock ranges from Alabama waters west to the San Antonio Bay system in Texas. There is a mixing zone of the Aransas and Corpus Christi Bay systems between the northern stock and the south Texas stock of the Laguna Madre.

Hatcheries and nurseries currently supplying seed to Texas mariculture operations produce more frequent and larger batches of triploid oyster seed with northern Gulf origins than those specific to Texas; thus, availability of Texas-specific triploid seed is limited. Allowing permittees to utilize this more robust seed supply will provide access to a more consistent, stable supply of triploid oyster seed, which in turn is expected to result in COM industry stability and growth.

The proposed amendment would alter §58.353(h) to require that broodstock must originate from the waters of Texas, Louisiana, Mississippi, or Alabama. Additionally, the phrase "originating from the Gulf" is also added to subparagraph (A) to create structural agreement with subparagraph (B), which is intended to eliminate potential confusion or misunderstanding.

Dr. Lindsay Glass Campbell, Cultivated Oyster Mariculture Program Coordinator, Coastal Fisheries Division, has determined that for each of the first five years that the rule as proposed is in effect, there will be no additional fiscal implications to state or local government as a result of administering the rule as proposed, as department personnel currently allocated to the administration and enforcement of the Cultivated Oyster Mariculture Program will continue to administer and enforce the rules as part of their current job duties.

Dr. Campbell also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be expanding oyster seed procurement opportunities for a growing industry, including the ecological benefits provided by oysters in public waters and the production of oysters for public consumption.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a

regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

To ensure that this analysis captures every small or microbusiness affected by the proposed rule, the department assumes that most, if not all persons who hold a COM permit qualify as small or microbusinesses. Department data indicate that there are currently 20 fully permitted and 39 conditionally approved cultivated oyster mariculture sites.

The department has determined that because the rule as proposed does not include any fee, would not change any recordkeeping or reporting requirements, or require additional expense on the part of the regulated community, the rule will not result in direct adverse economic impacts to small businesses, microbusinesses, or rural communities; therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not directly impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of a fee; not create a new regulation, but modify existing regulations; not expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

The department has determined that the proposed rule is in compliance with Government Code, §505.11 (Actions and Rule Amendments Subject to the Coastal Management Program).

Comments on the proposed rule may be submitted to Dr. Lindsay Glass Campbell (Coastal Fisheries), at (512) 389-8575 (email: cfish@tpwd.texas.gov). Comments

also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/

The amendment is proposed under the authority of Parks and Wildlife Code, §75.0103, which requires the commission to adopt rules to establish a program governing cultivated oyster mariculture, which may establish requirements for the taking, possession, transport, movement, and sale of cultivated oysters; the taking, possession, transport, and movement of broodstock oysters; fees and conditions for use of public resources, including broodstock oysters and public water, and any other matter necessary to implement and administer Parks and Wildlife Code, Chapter 75.

The proposed amendment affects Parks and Wildlife Code, Chapter 75.

§58.353. *General Provisions.*

(a) - (g) (No change.)

(h) Unless otherwise specifically authorized by the department in writing, cultivated oyster mariculture is restricted to seed and larvae from native Eastern oyster (*Crassostrea virginica* [~~Crassostrea virginica~~]) broodstock collected or originating from Texas waters and propagated in a permitted Nursery-Hatchery located in Texas.

(1) The department may authorize a person permitted under this subchapter to, on or before December 31, 2033, import:

(A) tetraploid seed, larvae, and/or semen/eggs (germplasm) originating from the Gulf and produced in department-approved out-of-state hatcheries located along the Gulf [of Mexico] for use in cultivated oyster mariculture in this state; and/or

(B) triploid seed, larvae, and/or semen/eggs (germplasm) from a tetraploid line of oysters originating from the Gulf [~~of Mexico~~] and crossed with broodstock originating from Texas, Louisiana, Mississippi, or Alabama waters [Texas waters] produced in department-approved out-of-state hatcheries located along the Gulf [~~of Mexico~~] for use in cultivated oyster mariculture in this state; and/or

(C) diploid seed, larvae, and/or semen/eggs (germplasm) produced from Texas broodstock at department-approved out-of-state hatcheries located along the Gulf [~~of Mexico~~] for use in cultivated oyster mariculture in this state.

(2) - (3) (No change.)

(i) - (w) (No change.)

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

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

TRD-202501099

James Murphy

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 18, 2025

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

