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# TEXAS REGISTER

*Volume 49 Number 27*

*July 5, 2024*

*Pages 4853 - 4970*

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*2025 Publication Schedule Inside*

# TEXAS REGISTER

a section of the  
Office of the Secretary of State  
P.O. Box 12887  
Austin, Texas 78711  
(512) 463-5561  
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<https://www.sos.texas.gov>  
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***Texas Register***, (ISSN 0362-4781, USPS 12-0090), is published weekly (52 times per year) for \$340.00 (\$502.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P. O. Box 1710, Latham, NY 12110.

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

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

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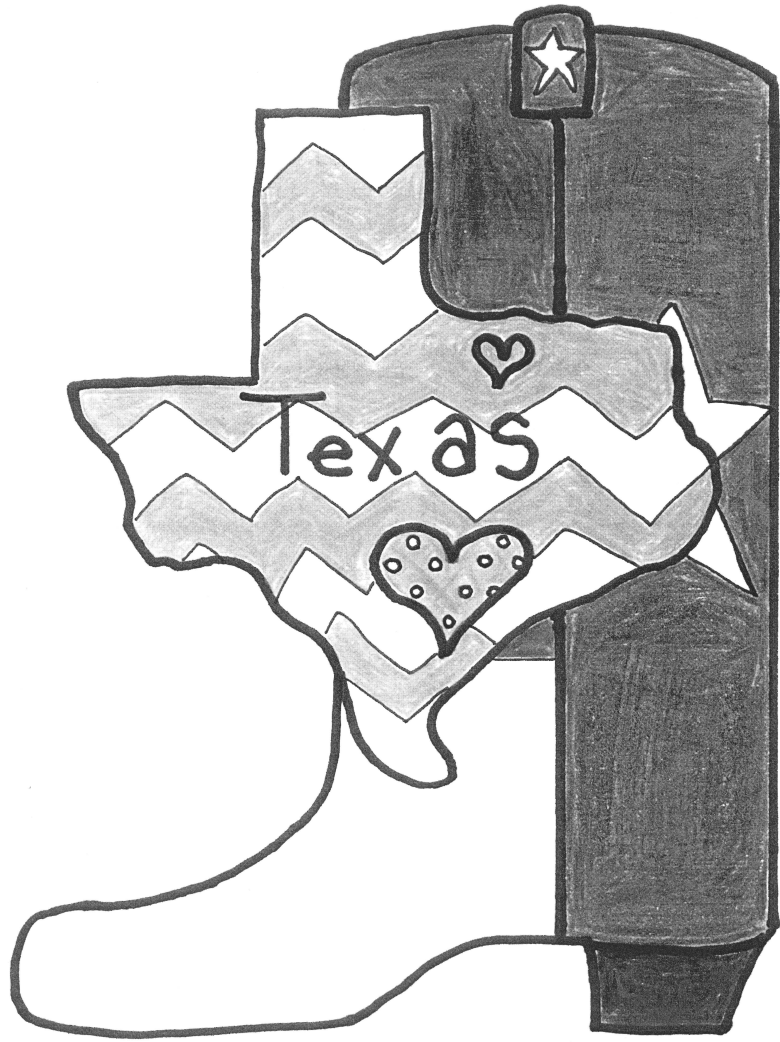
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# THE GOVERNOR

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 June 24, 2024

Appointed to the ERCOT Board Selection Committee for a term to expire at the pleasure of the Governor, Paul L. Foster of El Paso, Texas (replacing Arch H. "Beaver" Aplin, III of Lake Jackson).

Appointed to the Public Utility Commission of Texas for a term to expire September 1, 2025, Courtney K. Hjaltman of Austin, Texas (replacing James W. "Will" McAdams of Cedar Park, who resigned).

### Appointments for June 25, 2024

Appointed to the Texas Military Preparedness Commission for a term to expire February 1, 2027, John M. "Mark" McLean of Fort Worth, Texas (replacing Kevin E. Pottinger of Keller, who resigned).

Appointed to the Texas Military Preparedness Commission for a term to expire February 1, 2027, Paul R. Norwood of Georgetown, Texas (replacing Kenneth E. Sheets of Dallas, who resigned).

Greg Abbott, Governor

TRD-202402796



### Proclamation 41-4121

#### TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that Tropical Storm Alberto poses a threat of imminent disaster, including widespread and severe property damage, injury, and loss of life due to widespread flooding, life threatening storm surge, damaging wind, and heavy rainfall in Aransas, Atascosa, Bandera, Bee, Bexar, Brazoria, Brooks, Calhoun, Cameron, Chambers, DeWitt, Dimmit, Duval, Edwards, Fort Bend, Frio, Galveston, Goliad, Gonzales, Harris, Hidalgo, Jackson, Jefferson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Matagorda, Maverick, McMullen, Medina, Nueces, Orange, Real, Refugio, San Patricio, Starr, Uvalde, Val Verde, Victoria, Webb, Wharton, Willacy, Wilson, Zapata, and Zavala Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such threat.

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 19th day of June, 2024.

Greg Abbott, Governor

TRD-202402750



### Proclamation 41-4122

#### TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on February 27, 2024, certifying that the wildfires that began on February 23, 2024, posed an imminent threat of widespread or severe damage, injury, or loss of life or property in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that the same wildfire conditions continue to exist in these and other counties in Texas, with the exception of Andrews, Armstrong, Bailey, Borden, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Ector, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Martin, Midland, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Wheeler, and Yoakum Counties;

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 Archer, Baylor, Brewster, Clay, Crane, Culberson, El Paso, Hudspeth, Jack, Jeff Davis, Kinney, Loving, Montague, Pecos, Presidio, Reeves, Shackelford, Terrell, Throckmorton, Upton, Uvalde, Val Verde, Ward, Wichita, Wilbarger, Winkler, and Young 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 26th day of June, 2024.

Greg Abbott, Governor

TRD-202402797





# 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 Opinions

EAO-606: Whether a Texas Limited Liability Company that is a wholly-owned subsidiary of a Master Limited Partnership that is traded on the New York Stock Exchange is prohibited by Chapter 253 of the Election Code from making certain political contributions. (AOR-693).

### SUMMARY

A Texas Limited Liability Company that is owned by a partnership whose shares are publicly-traded on an exchange is subject to the Chapter 253 corporate contribution prohibition if any share of the partnership is owned by a corporation.

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.*

Issued in Austin, Texas, on June 18, 2024.

TRD-202402700  
Jim Tinley  
General Counsel  
Texas Ethics Commission  
Filed: June 20, 2024



EAO-607: Whether an officer or employee of a political subdivision who leases a residence to an employee may allow the employee to place a sign endorsing a candidate or a measure in the yard of the leased residence. (AOR-706).

### SUMMARY

Under the facts presented in this opinion, an officer or employee of a political subdivision does not violate Section 255.003(a) by allowing a resident-employee to place political advertising outside of a residence owned by the ISD.

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, Gov-

ernment 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.*

Issued in Austin, Texas, on June 18, 2024.

TRD-202402701  
Jim Tinley  
General Counsel  
Texas Ethics Commission  
Filed: June 20, 2024



EAO-608: Whether a PFS filer who owns a law firm that holds settlement funds on behalf of a client must report the settlement funds on the filer's personal financial statement filed under Chapter 572 of the Government Code. (AOR-708).

### SUMMARY

Settlement funds held by law firm in trust for client are not the property of the law firm and do not have to be disclosed on a PFS.

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.*

Issued in Austin, Texas, on June 18, 2024.

TRD-202402702  
Jim Tinley  
General Counsel  
Texas Ethics Commission  
Filed: June 20, 2024





# 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 7. BANKING AND SECURITIES

### PART 1. FINANCE COMMISSION OF TEXAS

#### CHAPTER 9. RULES OF PROCEDURE FOR CONTESTED CASE HEARINGS, APPEALS, AND RULEMAKINGS

The Finance Commission of Texas (the finance commission) proposes amendments to §9.1, concerning Application, Construction, and Definitions; and §9.12, concerning Default in 7 TAC, Chapter 9, concerning Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings.

The purpose of the proposed amendment to §9.1 is to clarify the authority of the Texas Department of Banking (DOB) to employ a hearings officer.

The purpose of the proposed amendments to §9.12 is to clarify the procedures used by the finance agencies to dispose of a contested case in the event of default. The finance agencies are the DOB, the Department of Savings and Mortgage Lending (SML), and the Office of Consumer Credit Commissioner (OCCC). The amendments are necessary to ensure 9.12 conforms to the State Office of Administrative Hearings (SOAH) procedural default rule (1 TAC §155.501), which was updated November 20, 2020.

The proposed amendment to §9.1 adds a reference to Texas Finance Code, §11.202 which provides the statutory authority for the DOB to employ a hearings officer to serve the finance agencies. The effect is to ensure the public is aware of the source of this authority.

The proposed amendments to §9.12 consist of minor technical corrections ensuring that the language is consistent with SOAH's default rule found in 1 TAC §155.501. Section 9.12 governs default proceedings for contested case hearings involving the finance agencies. Subsection (b) specifies the default procedures that apply to hearings conducted by SOAH, specifically referencing default proceedings conducted pursuant to 1 TAC §155.501. The proposed amendments to §9.12 are a result of substantive updates to §155.501 by SOAH in 2020, with the effect of ensuring the finance agencies' procedural rule remains consistent.

Wendy Rodriguez, Deputy Commissioner, Texas Department of Banking, on behalf of the Finance Commission of Texas, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of administering the rules.

Deputy Commissioner Rodriguez also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will

be that the finance commission's rules will be more easily understood by licensees required to comply with the rules, and will be more easily enforced.

There is no anticipated cost to persons who are required to comply with the amendments as proposed. There will be no adverse economic effect on small or micro- businesses or rural communities. There will be no difference in the cost of compliance for these entities. There will be no effect on individuals required to comply with the amendments as proposed.

For each year of the first five years that the amended rules will be in effect, the amended rules will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and
- positively or adversely affect this state's economy.

To be considered, comments on the proposed amendments must be submitted no later than 5:00 p.m. on August 5, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to [legal@dob.texas.gov](mailto:legal@dob.texas.gov).

#### SUBCHAPTER A. GENERAL

##### 7 TAC §9.1

The amendments are proposed under Texas Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The amendments are also proposed under specific rulemaking authority in the substantive statutes administered by the agencies. Texas Finance Code, §11.301, §31.003(a)(5), and 181.003(a)(5) authorize the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. Texas Finance Code, §152.052(a) authorizes the finance commission to adopt rules necessary to implement and clarify Chapter 152. Texas Finance Code, §154.051(b) authorizes the Department of Banking to adopt

rules concerning matters incidental to the enforcement and orderly administration of Chapter 154.

Texas Finance Code, §11.302 authorizes the finance commission to adopt rules applicable to state savings associations or savings banks. Texas Finance Code, §66.002(3) authorizes the finance commission to adopt procedural rules for processing, hearing, and deciding applications filed with the savings and mortgage lending commissioner or SML under Texas Finance Code, Title 3, Subtitle B. Texas Finance Code, §96.002(a)(2) authorizes the finance commission to adopt procedural rules for processing, hearing, and deciding applications filed with the savings and mortgage lending commissioner or SML under Finance Code, Title 3, Subtitle C. Texas Finance Code, §11.306 authorizes the finance commission to adopt residential mortgage loan origination rules as provided by Texas Finance Code, Chapter 156; and, Texas Finance Code, §156.102(a) authorizes the finance commission to adopt rules to enforce such chapter. Texas Finance Code, §157.0023 authorizes the finance commission to adopt rules to enforce Chapter 157. Texas Finance Code, §158.003(b) authorizes the finance commission to adopt rules to enforce Chapter 158. Texas Finance Code, §159.108 authorizes the finance commission to adopt rules to enforce Chapter 159. Texas Finance Code, §180.004 authorizes the commission to adopt rules to enforce Chapter 180.

Texas Finance Code, §11.304 authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Texas Finance Code, Chapter 14, and Title 4. Texas Finance Code, §393.622 authorizes the finance commission to adopt rules to enforce Chapter 393. Texas Finance Code, §394.214 authorizes the finance commission to adopt rules to enforce Chapter 394. Texas Occupations Code, §1956.0611 authorizes the finance commission to adopt rules to enforce Subchapter B, Chapter 1956.

The statutory provisions affected by the proposal are contained in Texas Finance Code: Chapters 11, 14, 152, 154, 156-159, 180, 393, 394; Title 3, Subtitles A-C; Title 4; Texas Health and Safety Code, Chapter 712; and Texas Occupations Code, Chapter 1956.

*§9.1. Application, Construction, and Definitions.*

(a) This chapter governs contested case hearings conducted by an administrative law judge employed or contracted by an agency under Texas Finance Code, §11.202. All contested case hearings conducted by the State Office of Administrative Hearings (SOAH) are governed by SOAH's procedural rules found at Title 1, Chapter 155 of the Texas Administrative Code and §9.12(b) of this title (relating to Default).

(b) - (c) (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 June 21, 2024.

TRD-202402742

Robert K. Nichols

General Counsel

Finance Commission of Texas

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## SUBCHAPTER B. CONTESTED CASE HEARINGS

### 7 TAC §9.12

The amendments are proposed under Texas Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The amendments are also proposed under specific rulemaking authority in the substantive statutes administered by the agencies. Texas Finance Code, §11.301, §31.003(a)(5), and 181.003(a)(5) authorize the finance commission to adopt rules necessary or reasonable to facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission. Texas Finance Code, §152.052(a) authorizes the finance commission to adopt rules necessary to implement and clarify Chapter 152. Texas Finance Code, §154.051(b) authorizes the Department of Banking to adopt rules concerning matters incidental to the enforcement and orderly administration of Chapter 154.

Texas Finance Code, §11.302 authorizes the finance commission to adopt rules applicable to state savings associations or savings banks. Texas Finance Code, §66.002(3) authorizes the finance commission to adopt procedural rules for processing, hearing, and deciding applications filed with the savings and mortgage lending commissioner or SML under Texas Finance Code, Title 3, Subtitle B. Texas Finance Code, §96.002(a)(2) authorizes the finance commission to adopt procedural rules for processing, hearing, and deciding applications filed with the savings and mortgage lending commissioner or SML under Finance Code, Title 3, Subtitle C. Texas Finance Code, §11.306 authorizes the finance commission to adopt residential mortgage loan origination rules as provided by Texas Finance Code, Chapter 156; and, Texas Finance Code, §156.102(a) authorizes the finance commission to adopt rules to enforce such chapter. Texas Finance Code, §157.0023 authorizes the finance commission to adopt rules to enforce Chapter 157. Texas Finance Code, §158.003(b) authorizes the finance commission to adopt rules to enforce Chapter 158. Texas Finance Code, §159.108 authorizes the finance commission to adopt rules to enforce Chapter 159. Texas Finance Code, §180.004 authorizes the commission to adopt rules to enforce Chapter 180.

Texas Finance Code, §11.304 authorizes the finance commission to adopt rules necessary for supervising the consumer credit commissioner and for ensuring compliance with Texas Finance Code, Chapter 14, and Title 4. Texas Finance Code, §393.622 authorizes the finance commission to adopt rules to enforce Chapter 393. Texas Finance Code, §394.214 authorizes the finance commission to adopt rules to enforce Chapter 394. Texas Occupations Code, §1956.0611 authorizes the finance commission to adopt rules to enforce Subchapter B, Chapter 1956.

*§9.12. Default.*

(a) (No change.)

(b) SOAH hearings. In a hearing conducted by the State Office of Administrative Hearings (SOAH), the agency may request that the administrative law judge make a finding of default under 1 TAC §155.501 (relating to Failure to Attend Hearings and Default Proceedings).

(1) Service of notice of hearing. A notice of hearing may be served to the party's last known address. Applicants and holders of

licenses, registrations, charters, and permits shall keep the agency informed as to their correct current mailing addresses and may be served with initial process by registered or certified mail, return receipt requested, to the address provided to the agency.

(2) Adequate proof of notice of hearing. At the time of the request, the agency must present adequate proof to the administrative law judge that the agency properly served the party with the notice of hearing, as required by 1 TAC §155.501(b).

(3) Effect of default. If the administrative law judge receives the required showing of proof to support a default, the allegations contained in the notice of hearing may be deemed admitted, and the relief sought in the notice may be granted with respect to any party given proper notice of the hearing.

(4) Disposing of default case. The agency may request that the administrative law judge dismiss the case from the SOAH docket and remand it to the agency for informal disposition as permitted by Texas Government Code, §2001.056 and §2001.058(d-1).

(5) Final order after default. If the administrative law judge issues an [a conditional] order of default dismissal [and remand] that provides the defaulting party with adequate notice and opportunity to set aside the default under 1 TAC §155.501(e) and the case is remanded to the agency, [conditional order of dismissal and remand has become final,] the agency may issue a final order that:

(A) finds that the agency served the party with a notice of hearing stating that if the party failed to attend the hearing, then the allegations contained in the notice of hearing could be deemed admitted, and the relief sought might be granted;

(B) describes how the notice of hearing was served on the party;

(C) finds that the party failed to attend the hearing;

(D) finds that the allegations described in the notice are deemed admitted;

(E) concludes that the party has defaulted as a matter of law; and

(F) grants the relief described in the notice of hearing.

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 June 21, 2024.

TRD-202402743

Robert K. Nichols

General Counsel

Finance Commission of Texas

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## CHAPTER 10. CONTRACT PROCEDURES SUBCHAPTER C. CONTRACT MONITORING

### 7 TAC §10.40

The Finance Commission of Texas (the commission) proposes to amend 7 Texas Administrative Code §10.40 (§10.40), concerning enhanced contract and performance monitoring, and the posting of certain contracts on commission supervised finance agency websites. The proposed amendments would remove a

redundant provision of the current rule and ensure §10.40 conforms with Texas Government Code, §2261.253.

Adopted in 2017, §10.40 contains the finance agencies' (defined below) procedures concerning contracting for the purchase of goods or services from private vendors. The finance agencies are the Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner (the finance agencies).

Subsection (b)(2) currently limits application of §10.40 to contracts for which requests for bids or proposals were made public on or after September 1, 2015, and contracts exempt from competitive bidding entered into on or after September 1, 2015. Subsection (b)(2) is no longer necessary because the finance agencies no longer have any outstanding contracts for which requests were made before September 1, 2015. The proposed amendments thus remove the now superfluous subsection.

Subsection (b)(3) currently identifies certain documents that are not subject to §10.40, consistent with Texas Government Code, §2261.253(d). A proposed amendment to the heading of subsection (b)(2) would specify that the documents are not subject to "this section," replacing current text referring only to "enhanced monitoring." Other proposed amendments would specify that documents not subject to §10.40 "include" the four documents listed in subsection (b)(2). This is intended to clarify that the list in subsection (b)(2) is not an exhaustive list, and other documents might not be subject to the rule (e.g., documents excluded under another provision of Texas Government Code, §2261.253).

Texas Government Code, §2261.253(c) requires state agencies to "by rule [...] establish a procedure to identify each contract that requires enhanced contract or performance monitoring." While each finance agency has prescribed and implemented a procedure for identifying those contracts for enhanced monitoring, the proposed amendments add a new paragraph to subsection (c), ensuring full compliance with §2261.253(c).

Subsection (d) currently describes website posting of contracts. A proposed amendment to subsection (d)(1) replaces a specific reference to Texas Government Code, §2261.253(a) with a more general reference to posting in compliance with Texas Government Code, §2261.253. This is intended to clarify that the agencies will comply with respect to contracts that meet the requirements of §2261.253 as a whole.

Wendy Rodriguez, Deputy Commissioner, Texas Department of Banking, on behalf of the Finance Commission of Texas, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of administering the rules.

Deputy Commissioner Rodriguez has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be that the commission's rules are more easily understood by licensees subject to the rules, and are more easily enforced by the finance agencies.

There is no anticipated cost to persons who are required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will be no difference in the cost of compliance for these entities. There will be no effect on individuals required to comply with the amendments as proposed.

For each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit, or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and
- positively or adversely affect this state's economy.

To be considered, comments on the proposed amendment to §10.40 must be submitted no later than 5:00 p.m. on August 5, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to [legal@dob.texas.gov](mailto:legal@dob.texas.gov).

The amendments are proposed under Texas Government Code, §2261.253(c), which requires each state agency to adopt rules establishing a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body.

The statutory provisions affected by the proposed new rule are contained in Texas Government Code, Chapter 2261.

§10.40. *Enhanced Contract and Performance Monitoring; Website Posting.*

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

(1) Finance agencies. This section applies to the agencies governed by the Finance Commission of the State of Texas: the Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner.

~~[(2) Date of contracts subject to enhanced monitoring. This section applies to the following:]~~

~~[(A) contracts for which the request for bids or proposal is made public on or after September 1, 2015; and]~~

~~[(B) for contracts exempt from competitive bidding, contracts entered into on or after September 1, 2015:]~~

~~(2) [(3)] Documents not subject to this section. Documents not subject to this section include the following: [enhanced monitoring. This section does not apply to:]~~

- (A) memoranda of understanding;
- (B) interagency contracts;
- (C) interlocal agreements; and [or]
- (D) contracts that do not involve a cost.

- (c) Contract evaluation and monitoring.

(1) Use of finance agency policies and contract management handbook. Contracts are evaluated and monitored in accordance with each respective finance agency's policies and contract management handbook. Each finance agency maintains a contract

management handbook in accordance with Texas Government Code, §2261.256.

(2) Identifying contracts that require enhanced monitoring. Each finance agency will include risk assessment factors in its contract management handbook to identify contracts that require enhanced contract or performance monitoring. The risk assessment factors must include the following:

- (A) the total contract amount;
- (B) the type of contract purchase;
- (C) the impact to the agency and its mission; and
- (D) the compliance history of the contractor.

(3) ~~[(2)]~~ Finance Commission notice. If a finance agency identifies a contract that requires enhanced monitoring, the finance agency will notify the Finance Commission in accordance with its policies and contract management handbook. The finance agency will include in the notification any serious issues or risks identified with the contract.

- (d) Website posting.

(1) Posting on finance agency website. Each finance agency will post on its website contracts that meet the posting requirements provided by Texas Government Code, §2261.253 [§2261.253(a)].

(2) Redaction of confidential information. Before posting the contracts under paragraph (1) of this subsection, each finance agency must redact information that is confidential by law, information excepted from public disclosure by the Texas Public Information Act (Texas Government Code, Chapter 552), and the social security number of any individual in accordance with Texas Government Code, §2261.253(e).

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 June 21, 2024.

TRD-202402744

Robert K. Nichols

General Counsel

Finance Commission of Texas

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## PART 2. TEXAS DEPARTMENT OF BANKING

### CHAPTER 33. MONEY SERVICES BUSINESSES

#### 7 TAC §33.27

The Finance Commission of Texas (the "commission"), on behalf of the Texas Department of Banking (the "department"), proposes to amend 7 Texas Administrative Code §33.27 ("§33.27"), concerning fees to obtain and maintain a license.

The proposed amendments to §33.27 will: (i) update the assessment fee schedules in subsections (e)(1) and (e)(2) to reflect the assessments set forth in the attached Figure: 7 TAC

§33.27(e)(1) and Figure: 7 TAC §33.27(e)(2), respectively; (ii) add subsection (e)(4) permitting the department to increase assessments based on the percentage change in an inflation index beginning September 1, 2025; and (iii) increase the hourly examination fees in subsections (d)(1)(A), (e)(3), (f)(1), (g)(3), (h)(2), and (h)(4) to \$120 per hour.

#### Annual Assessments

The primary regulatory programs administered by the department are supported by assessments, like those in §§33.27(e)(1) and (e)(2), requiring each regulated industry to pay its proportionate share of the cost of regulation. The purpose of most fees charged by the department, whether for an application, an examination, or another purpose, is to enable the department to be self-supporting and each regulatory program to be self-sustaining. Further, the department may not directly or indirectly cause the State's General Revenue Fund to incur such costs. Therefore, the department must periodically evaluate its operations and financial forecasts to determine whether the fee structure equitably funds the cost of regulation, as required by statute, and adequately supports the department and relevant regulatory programs.

The department determined that key regulatory functions are not adequately funded by the existing fee structure, primarily due to increase in labor and other costs. The proposed amendments to §33.27 will increase the allowable annual assessments paid by money services businesses to offset forecasted funding shortfalls. These adjustments are long overdue, as operational expenses have significantly increased while assessments for money services businesses have not increased in over nine years. See *Texas Register*, Vol. 39, No. 35, August 29, 2014, p. 6827.

As discussed in the Fiscal and Regulatory Section below, penalties assessed to both licensed and unlicensed money services businesses during the fiscal year may be used to offset the assessments collected by the department. However, forecasting of assessments is calculated independently of any penalties as penalties are inherently inconsistent from year to year and the department seeks to ensure projected budgets are based on reliable sources of revenue instead of enforcement actions.

Increases in operational costs are principally responsible for driving the proposed fee increases. The department's costs for money services business programs, such as the required periodic examination of each licensed business, have increased over the years due to a variety of factors including the following: rising inflation impacting items such as travel costs; the necessity to attract, hire, and retain qualified personnel; and the additional time, resources, and attention required by the increasing complexity of money services business operations. As a result, the staffing plan for full-time money services business financial examiners has increased from six in fiscal year 2021 to 12 in fiscal year 2023. Fiscal year 2024's staffing plan further increases the number of examiners to 15 in order to properly, and timely, examine license holders and anticipated new license holders as projected from current applications.

The department is also incurring new costs related to the passage of Chapter 160 of the Finance Code ("Chapter 160"), which became effective September 1, 2023. Chapter 160 charges the department with ensuring money transmitters that qualify as digital asset service providers comply with certain standards. The build out of an expanded regulatory scheme to administer the new Chapter 160, which includes an expanded examination

scope for the eligible digital asset service providers, generate costs to the department which have not been previously incurred.

Based on historical examination data and costs, coupled with the increased complexity of the examinations, the department believes the proposed fee adjustments will provide the funding required to administer and enforce Finance Code, Chapters 152 and 160 in a manner that is fair and equitable to licensees.

#### Inflation Adjustments

The addition of §33.27(e)(4) will eliminate the need for large future, one-time increases in annual assessments by allowing the department to increase those assessments proportionate to inflation. The proposed inflation index is the Gross Domestic Product Implicit Price Deflator (the "GDPIPD"), published quarterly by the Bureau of Economic Analysis, which is part of the United States Department of Commerce. The GDPIPD captures the overall level of inflation in everything that an economy produces and is typically used to calculate inflation at the corporate or governmental level. The GDPIPD is used for similar purposes in Title 7, Texas Administrative Code Chapters 3, 25, and 26.

#### Examination Fees

This rule amendment also proposes an increase in the rate of each examiner hour to \$120, specifically in §33.27 subsections (d)(1)(A), (e)(3), (f)(1), (g)(3), (h)(2), and (h)(4). These hourly fees are charged to money services businesses in the following limited instances: the examination of a new money services business that has not yet filed the first annual report and thus not paid an annual assessment; review of a change of control application that requires more than eight employee hours; an additional examination required in the same fiscal year due to a money services business's failure to comply with Finance Code, Chapter 152 ("Chapter 152"); on-site review of money services business' authorized delegates; and an on-site examination of an applicant, as deemed necessary.

To determine the proposed rate, the department compiled the salaries of all money services business examiners (based on fully staffed projections) and related direct and indirect expenses, including overhead, and divided by available billable hours (excluding vacation leave, sick leave, and holidays).

#### Fiscal and Regulatory Impact

Jesus "Jesse" Saucillo Director of Non-Depository Supervision, Texas Department of Banking, has determined that the public benefit anticipated as a result of adopting the rule amendment, for each year of the first five years the proposed amended rule is in effect, will enhance consumer protection and provide assurance that the department can continue to meet its regulatory mandate under Finance Code, Chapters 152 and 160.

For each year of the first five years that the amended rule will be in effect, the rule is not expected to:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- create a new regulation;
- expand, limit, or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and

- positively or adversely affect this state's economy.

Director Saucillo also determined that for the first five-year period it is in effect, the amended rule will require an increase in fees paid to the department and that there will be fiscal implications for state government (but not for local government). The amended rule itself is an increase in fees charged to applicable businesses, generating additional revenues to the department, with additional increases contemplated by the inflation adjustments proposed in subsection (e)(4).

Director Saucillo conservatively estimates that the proposed assessment fee adjustments will generate an average increase of \$1,068,115 in revenue for each year of the first five-year period the proposed rule is in effect, to cover projected expenses. The projected increases in revenue are not based on the maximum amounts allowed under the amended rule, rather it is an average of the increase in revenue to cover the division's forecasted increases in expenses. The department monitors actual expenses on a quarterly basis to balance revenues with expenses and allow for the reduction of charged assessments if revenues sufficiently exceed expenses in a fiscal year.

Expenses were determined using established knowledge-based forecasts and past, current, and projected financial information. The major expenses included in the analysis were salaries, in-state examination travel expenses, and employee training and development fees. For salaries, anticipated promotions and the hiring of additional staff and related costs were included in the projected expenses. A three percent year-over-year inflationary increase was included when calculating the five-year average increase in expense. However, these increases may be offset to some extent by fines and penalties collected by the department during the fiscal year. In those circumstances, the commissioner may reduce payable assessments pursuant to §33.27, as discussed further below.

For each year of the first five years during which the amended section will be in effect, there will be economic costs applicable to persons who are required to comply with the amended section, as proposed. There will be an adverse economic effect on small businesses and micro-businesses due to the increases in fees, though these effects are mitigated as there will be smaller proportionate increases for small and micro-businesses, and there will be no adverse economic effect on rural communities, as described further in the following paragraphs.

There are 184 money services business licensees paying assessment fees this fiscal year. Of these licensees, the department has identified seven as small businesses, 19 as micro-businesses, and zero in rural communities, each as defined in Government Code, §2006.001.

A money service business may obtain one of two licenses under Chapter 152: a license for money transmission, or a license for currency exchange. The department currently has 22 currency exchange licensees of which three were identified as small businesses, and 19 as micro-businesses. Since examining a currency exchange licensee is substantially less complex than examining a money transmission licensee, the proposed increase in assessments for a currency exchange licensee is substantially less than the proposed increase for a money transmission licensee. The average increase in assessments for currency exchange licensee will be 14%, or \$734.

Each of the four money transmission licensees identified as a small business will, on average, pay 14% or \$1,126 more in fees for each year of the first five years the proposed rule is in effect.

No money transmission licensees were identified as micro-businesses.

The assessment table is a tiered system segregated into eight categories based on Texas transaction volume. The average increase in fees for money transmitters is based on the volume of money transmission activity conducted in Texas and summarized as follows:

- 15% or \$1,012 for annual money transmission volume of less than \$200 million;
- 22% or \$2,963 for annual money transmission volume of greater than or equal to \$200 million but less than \$1 billion;
- 50% or \$10,548 for annual money transmission volume of greater than or equal to \$1 billion but less than \$2 billion; and
- 158% or \$33,496 for annual money transmission volume of greater than or equal to \$2 billion.

The department believes this proposed assessment fee structure best satisfies the mandate of Finance Code §152.052(b) which provides that fees be proportionate and equitable and provide for recovery of the department's costs related to administering and enforcing the Chapters 152 and 160.

The two largest percentage increases for money transmitters will affect approximately 40 licensees conducting greater than or equal to \$1 billion in annual transmission. Currently, assessments are capped at \$21,250 and those money transmitters conducting more than \$1.1 billion in annual money transmission volume are eligible to be assessed this maximum assessment cap. However, this maximum assessment is not sufficient to cover the increased and forecasted, direct and indirect costs required to administer and regulate these large and complex money services businesses.

Of the 40 licensees discussed in the paragraph above, 24 money transmitter licensees conduct more than \$2 billion in annual money transmission volume. These licensees account for over 89% of total transmission volume of all money transmission licensees in this state. With this significant volume comes a disproportionate regulatory burden compared to the average money transmitter licensee. Increasing the maximum assessment amount reflects an appropriate allocation of costs to those money transmitter licensees conducting the largest amount of money transmission volume in this state. Based on current licensee data, the department expects 15 licensees will be subject to the proposed increased maximum assessment.

The department has adopted and continues to apply strategies to mitigate adverse economic impacts on affected entities. Assessments are collected on a quarterly basis, preventing money services businesses from incurring a one-time financial load. Additionally, while the average increase in annual assessments for currency exchange licensees is significantly lower than money transmitter licensees, 7 Texas Administrative Code §33.27(j) provides an option for which a currency exchange licensee can obtain a temporary reduction in its assessment for one year if it is experiencing financial difficulties. Money services businesses must still demonstrate the financial condition and responsibility to protect the interests of purchasers of money services and the public.

As provided by 7 Texas Administrative Code §33.27(i)(3), the department may reduce assessments otherwise due in a year when a lesser amount is necessary to fund the department's cost of operations. In fiscal years 2019, 2020, 2021, 2022, and 2023, the



department reduced total billable annual assessments by 38%, 33%, 26%, 29%, and 22%, respectively. This was largely a result of the above referenced unbudgeted penalties collected by the department for unlicensed money services business activity and non-compliance by licensed money services businesses, as well as staff vacancies. Therefore, an increase in assessment rates will not necessarily result in a proportionate increase in assessments collected.

#### Comments

The department is requesting comments from any interested party to be provided to the department. To be considered, comments on the proposals must be submitted no later than 5:00 p.m. on August 5, 2024. Comments must be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

#### Proposed Amendments

The amendments to §33.27 are proposed under Finance Code, §§152.052 and 160.006, which authorize the commission to adopt rules to administer and enforce Texas Finance Code, Chapter 152, and Chapter 160, respectively. The commission may by rule impose and collect proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to recover the cost of maintaining and operating the department, administering, and enforcing Chapter 152 and other applicable law, and achieve the purposes of Chapter 152 and Chapter 160. Chapter 152 was enacted by Senate Bill 895 and Chapter 160 was enacted by House Bill 1666 during the 88th Legislative Session.

Texas Finance Code §§152.107 and 160.005 are affected by the proposed amended sections.

#### §33.27. *What Fees Must I Pay to Get and Maintain a License?*

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

(d) What fees must I pay to obtain a new license?

(1) You must pay a \$10,000 application fee to obtain a new money transmission license or a \$5,000 application fee to obtain a currency exchange license. If your application is accepted for processing pursuant to Finance Code, §152.106, your application fee will be non-refundable. You may also be required to pay the following additional fees:

(A) If the commissioner determines that it is necessary to conduct an on-site investigation of your business, you must pay a non-refundable investigation fee at a rate of \$120 [\$75] per hour for each department examiner required to conduct the investigation and all associated travel expenses;

(B) If the commissioner determines that it is necessary to employ a third-party screening service to assist with the investigation of your license application, you must pay the department for the reasonable costs for the third-party investigation; and

(C) If the commissioner determines it is necessary to perform background checks using fingerprint identification records, you must either submit payment for the costs of this service at the time you file your application or pay the department upon request.

(2) The commissioner may reduce the fees required under paragraph (1) of this subsection, if the commissioner determines that a lesser amount than would otherwise be collected is necessary to administer and enforce Finance Code, Chapter 152, and this chapter.

(e) What fees must I pay to maintain my money transmission or currency exchange license? You must pay your annual assessment. Subject to paragraph (3) of this subsection, the amount of your annual assessment is determined based on the total annual dollar amount of your Texas money transmission and/or [and or] currency exchange transactions, as applicable, as reflected on your most recent annual report filed with the department under Finance Code, §152.107(d)(2).

(1) If you hold a currency exchange license, you must pay the annual assessment specified in the following table:

Figure: 7 TAC §33.27(e)(1)

[Figure: 7 TAC §33.27(e)(1)]

(2) If you hold a money transmission license, you must pay the annual assessment specified in the following table:

Figure: 7 TAC §33.27(e)(2)

[Figure: 7 TAC §33.27(e)(2)]

(3) If you are a new license holder and have not yet filed your first annual report under Finance Code, §152.107(d)(2), you must pay an examination fee of \$120 [\$75] per hour for each examiner and all associated travel expenses for an examination.

(4) Adjustments for inflation. In this section, "GDPIPD" means the Gross Domestic Product Implicit Price Deflator, published quarterly by the Bureau of Economic Analysis, United States Department of Commerce. The "annual GDPIPD factor" is equal to the percentage change in the GDPIPD index values published for the first quarter of the current year compared to the first quarter of the previous year (the March-to-March period immediately preceding the calculation date), rounded to a hundredth of a percent (two decimal places).

(A) Beginning September 1, 2025, and each September 1 thereafter, the tables in paragraphs (1) and (2) of this subsection, as most recently revised before such date pursuant to this subsection, may be revised by the commissioner as follows:

(i) the base assessment amount, listed in column three of each table may be increased (or decreased) by an amount proportionate to the measure of inflation (or deflation) reflected in the annual GDPIPD factor, rounded to whole dollars;

(ii) each factor listed in column three of each table may be increased (or decreased) by an amount proportionate to the measure of inflation (or deflation) reflected in the annual GDPIPD factor, rounded to the number of decimal places set forth in the applicable row; and

(iii) the maximum assessment amount, listed in column three, row eight of each table may be increased (or decreased) by an amount proportionate to the measure of inflation (or deflation) reflected in the annual GDPIPD factor, rounded to whole dollars.

(B) If the table in paragraphs (1) and (2) of this subsection are revised for inflation (or deflation), then not later than August 1 of each year, the department shall calculate and prepare revised tables reflecting the inflation-adjusted values to be applied effective the following September 1, and will provide each license holder with notice of and access to the revised table.

(f) What fees must I pay in connection with a department investigation?

(1) If the commissioner considers it necessary or appropriate to investigate you or another person in order to administer and enforce Finance Code, Chapter 152, as authorized under §152.056, you or the investigated person must pay the department an investigation fee calculated at a rate of \$120 [\$75.00] per employee hour for the investigation and all associated travel expenses.

(2) If the commissioner determines that it is necessary to employ a third-party screening service to assist with an investigation, you must pay the department for the costs incurred for the third-party investigation.

(3) If the commissioner determines it is necessary to perform background checks using fingerprint identification records in an investigation, you must pay the department the costs incurred for this service.

(g) What fees must I pay in connection with a proposed change of control of my money transmission or currency exchange business?

(1) You must pay a non-refundable \$1,000 fee at the time you file an application requesting approval of your proposed change of control.

(2) You must pay a non-refundable \$500 fee to obtain the department's prior determination of whether a person would be considered a person in control and whether a change of control application must be filed. If the department determines that a change of control application is required, the prior determination fee will be applied to the fee required under paragraph (1) of this subsection.

(3) If the department's review of your change of control application or prior determination request requires more than eight employee hours, you must pay an additional review fee of \$120 [~~\$75~~] per employee hour for every hour in excess of eight hours.

(4) The commissioner may reduce the filing fees described in paragraph (1) or (2) of this subsection, if the commissioner determines that a lesser amount than would otherwise be collected is necessary to administer and enforce Finance Code, Chapter 152, and this chapter.

(h) What other fees must I pay?

(1) If the department does not receive your completed annual report on or before the due date prescribed by the commissioner under Finance Code, §152.107, you must pay a late fee of \$100 per day for each business day after the due date that the department does not receive your completed annual report.

(2) If more than one examination is required in the same fiscal year because of your failure to comply with Finance Code, Chapter 152, this chapter, or a department directive, you must pay for the additional examination at a rate of \$120 [~~\$75~~] per hour for each examiner required to conduct the additional examination and all associated travel expenses. A fiscal year is the 12-month period from September 1st of one year to August 31st of the following year.

(3) If the department travels out-of-state to conduct your examination, you must pay for all associated travel expenses.

(4) If the commissioner determines it is necessary to conduct an on-site examination of your authorized delegate to ensure your compliance with Finance Code, Chapter 152, you must pay an examination fee of \$120 [~~\$75~~] per hour for each examiner and any associated travel expenses.

(i) - (j) (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 June 21, 2024.

TRD-202402745

Robert K. Nichols

General Counsel

Texas Department of Banking

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## 7 TAC §33.51

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend 7 TAC §33.51 (§33.51), concerning providing information to customers on how to file a complaint. The proposed amendment arises from the passage of Senate Bill 895, sponsored by Senator Nathan Johnson, during the 88th legislative session and is proposed to revise an outdated citation. Effective September 1, 2023, Senate Bill 895 repealed Chapter 151 of the Texas Finance Code (Finance Code) and added Chapter 152 relating to the regulation of money services businesses.

The proposed amendment to §33.51 updates a citation referencing Chapter 151 to instead reference Chapter 152 of the Finance Code.

Jesus Saucillo, Director of Non-Depository Supervision, Texas Department of Banking, has determined that for the first five-year period the proposed amended rule is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed amended rules.

Director Saucillo also has determined that, for each year of the first five years the amended rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule is greater clarity of the rules to which money services businesses are subject.

For each year of the first five years that the amended rule will be in effect, the economic costs to persons required to comply with the rules as proposed will be unchanged from the costs required under these rules as they currently exist.

For each year of the first five years that the amended rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and
- positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities nor a difference in the cost of compliance for these entities.

To be considered, comments on the proposal must be submitted no later than 5:00 p.m. on August 5, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin,

Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

The amendment is proposed under Finance Code, §152.052 which authorizes the commission to adopt rules to administer and enforce Finance Code, Chapter 152.

No statutes are affected by the proposed amendment.

§33.51. *How do I Provide Information to My Customers about How to File a Complaint?*

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

(c) Must I provide notice to customers about how to file complaints? Yes. You must tell each of your customers how to file a complaint concerning the money transmission or currency exchange business you conduct under Finance Code, Chapter 152 [154], in accordance with this section.

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

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

Filed with the Office of the Secretary of State on June 21, 2024.

TRD-202402746

Robert K. Nichols

General Counsel

Texas Department of Banking

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## 7 TAC §33.81

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes new §33.81, concerning report requirements for digital asset service providers. The new rule is proposed to clarify how a digital asset service provider may comply with annual report requirements found in Texas Finance Code, §160.004(d)-(f).

The proposed new rule arises from the passage of House Bill 1666 during the 88th legislative session. Effective September 1, 2023, House Bill 1666 adopted Chapter 160 of the Texas Finance Code relating to regulation of digital asset service providers. Chapter 160 adds certain restrictions and requirements for money transmission licensees which also qualify as digital asset service providers in an effort to increase the security of consumer funds deposited with the entity.

The department has identified certain provisions of Chapter 160 which without clarification represent an obstacle to fully implementing the chapter. The department reviewed feedback from industry in determining how these provisions may be clarified to ensure effective compliance by covered entities.

Pursuant to Texas Finance Code, §160.004(d), digital asset services providers are required to file an annual report with the department which must include:

- (1) an attestation by the digital asset service provider of outstanding liability to digital asset customers;
- (2) evidence of customer assets held by the provider;
- (3) a copy of the provider's plan under Subsection (c); and

(4) an attestation by an auditor that the information in the report is true and accurate.

Section 160.004(e) requires an auditor fulfilling the requirements of §160.004 to be an independent certified public accountant licensed in the United States and to apply attestation standards adopted by the AICPA.

As noted above, §160.004(d)(4) requires the auditor to provide an attestation that the information submitted by the digital asset service provider is true and accurate. This conflicts with AICPA attestation standards as there is no standard resulting in a "true and accurate" statement by the auditor. The proposed rule resolves this issue by clarifying that the auditor meets this requirement by performing an examination and providing an unqualified opinion as to whether the items submitted by the digital asset service provider are fairly stated, in all material respects.

To ensure digital asset service providers may effectively comply with the annual report requirement, the proposed new rule thus provides clarity as to the requirements of §160.004(d)(4) by defining the applicable attestation standard the auditor must apply, consistent with §160.004(e).

Director Jesus (Jesse) Saucillo, Texas Department of Banking, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Director Saucillo also has determined that, for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule is clarity as to what is required under Chapter 160 and thus enhanced consumer protection.

For each year of the first five years that the rule will be in effect, there will be no economic costs to persons required to comply with the rule as proposed.

For each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and
- positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will be no difference in the cost of compliance for these entities.

To be considered, comments on the proposed new section must be submitted no later than 5:00 p.m. on August 5, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

The new rule is proposed under Texas Finance Code, §160.006, which provides commission may adopt rules to administer and enforce this chapter, including rules necessary and appropriate to implement and clarify this chapter.

Texas Finance Code, §160.004, is affected by the proposed new section.

§33.81. Digital Asset Service Provider Report.

A Digital Asset Service Provider satisfies the requirements of Section 160.004(d)(4) of the Texas Finance Code by submitting an unqualified opinion by an auditor performing an examination regarding whether the items required under Section 160.004(d)(1)-(3) are fairly stated, in all material respects.

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 June 21, 2024.

TRD-202402747

Robert K. Nichols

General Counsel

Texas Department of Banking

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 475-1382



## **TITLE 10. COMMUNITY DEVELOPMENT**

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

#### **CHAPTER 184. SPORTS AND EVENTS TRUST FUND**

The Office of the Governor, Economic Development and Tourism Office ("Office") proposes the repeal of 10 Texas Administrative Code ("TAC"), Chapter 184, concerning the Sports and Events Trust Fund. The Office determined the repeal was necessary during its review of the chapter under Section 2001.039, Texas Government Code. Elsewhere in this issue, the Office is proposing a new Chapter 184 to replace the repealed provisions.

#### **REASONED JUSTIFICATION**

As part of its review under Section 2001.039, Texas Government Code, the Office determined Chapter 184 should be repealed and replaced in its entirety with new rules that are substantially similar, but that have been reorganized to enhance readability, and from which unnecessary or outdated language has been removed. The proposed new rules also provide additional guidance and clarity about the types of expenditures that may be reimbursed, the documentation required to support reimbursement requests, and implement other changes to promote efficiency and ensure consistency in the application of program rules.

#### **FISCAL NOTE**

Adriana Cruz, Executive Director of Texas Economic Development & Tourism, Office of the Governor, has determined that the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction of costs, or loss or increase in revenue to the state or local governments as a result of

enforcing or administering the repeal. Additionally, Ms. Cruz has determined that enforcing or administering the repeal does not have foreseeable implications relating to the costs or revenues of state or local government.

#### **PUBLIC BENEFIT**

Ms. Cruz has determined for the first five-year period the proposed repeal is in effect there will be a benefit to applicants and the general public because the proposed repeal and replace of the rules related to the Events Trust Fund and the Major Events Reimbursement Program (collectively referred to as the "Program") will provide greater clarity and ensure consistency in the rules. Ms. Cruz has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be to offer clarity to applicants and help the Office better administer the rules.

#### **PROBABLE ECONOMIC COSTS**

Ms. Cruz has determined for the first five-year period the proposed repeal is in effect, there will be no additional economic costs to persons required to comply with this repeal.

#### **REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES.**

Ms. Cruz has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Office is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

#### **GOVERNMENT GROWTH IMPACT STATEMENT**

Ms. Cruz has determined that during each year of the first five years in which the proposed repealed and new rules are in effect, the repeals and new rules:

- 1) will not create or eliminate a government program;
- 2) will not require the creation of new employee positions or the elimination of existing employee positions;
- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) do not create new regulations;
- 6) will expand certain existing regulations, limit certain existing regulations, and repeal existing regulations;
- 7) will not increase or decrease the number of individuals subject to the applicability of the rules; and
- 8) will not positively or adversely affect the Texas economy.

#### **TAKINGS IMPACT ASSESSMENT**

Ms. Cruz has determined that there are no private real property interests affected by the proposed repeal. Thus, the Office is not required to prepare a takings impact assessment pursuant to Section 2007.043, Texas Government Code.

#### **REQUEST FOR PUBLIC COMMENTS**

Comments on the proposed repeals may be submitted to Gene Cervenka, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78701, or by email to [eventsfund@gov.texas.gov](mailto:eventsfund@gov.texas.gov) with the subject line "Events

Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on August 4, 2024, which is at least 30 days from the date of publication in the *Texas Register*.

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

### 10 TAC §§184.1 - 184.4

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter A. No other statutes, articles, or codes are affected by the proposed repeals.

§184.1. *Authority and Applicability.*

§184.2. *Purpose.*

§184.3. *Construction of Rules.*

§184.4. *General Definitions.*

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 June 21, 2024.

TRD-202402728

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100



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

### 10 TAC §§184.10 - 184.13

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas

Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter B. No other statutes, articles, or codes are affected by the proposed repeals.

§184.10. *Definitions.*

§184.11. *Eligibility.*

§184.12. *Request to Participate in the Major Events Reimbursement Program.*

§184.13. *Major Events Reimbursement Program Deadlines.*

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 June 21, 2024.

TRD-202402729

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100



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

### 10 TAC §§184.20 - 184.23

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter C. No other statutes, articles, or codes are affected by the proposed repeals.

§184.20. *Definitions.*

§184.21. *Eligibility.*

§184.22. *Request to Establish a Trust Fund.*

§184.23. *Events Trust Fund Program Deadlines.*

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 June 21, 2024.

TRD-202402730

Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100



## SUBCHAPTER D. REQUIRED REPORTS

### 10 TAC §§184.30 - 184.33

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter D. No other statutes, articles, or codes are affected by the proposed repeals.

§184.30. *Attendance Certification.*

§184.31. *Submission of Event Support Contract.*

§184.32. *Other Information Required by the Office.*

§184.33. *Post Event Report Information for Major Events Reimbursement Program.*

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 June 21, 2024.

TRD-202402731  
Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100



## SUBCHAPTER E. DISBURSEMENT PROCESS

### 10 TAC §§184.40 - 184.45

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter E. No other statutes, articles, or codes are affected by the proposed repeals.

§184.40. *Disbursements for Event Costs.*

§184.41. *Documentation Required to Initiate Disbursement Process.*

§184.42. *Extension of Time to Submit Disbursement Documentation.*

§184.43. *Disbursement of Trust Funds.*

§184.44. *Allowable Costs.*

§184.45. *Unallowable 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 June 21, 2024.

TRD-202402732  
Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100



## SUBCHAPTER F. EVENT SUPPORT CONTRACTS

### 10 TAC §§184.50, §184.51

#### STATUTORY AUTHORITY.

The repeal is proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The repeal is also proposed pursuant to section 475.0004, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes this repeal under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter F. No other statutes, articles, or codes are affected by the proposed repeals.

§184.50. *Requirements for Event Support Contracts.*

§184.51. *Contract Guidelines.*

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 June 21, 2024.

TRD-202402733  
Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100

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## CHAPTER 184. SPORTS AND EVENTS TRUST FUND

The Office of the Governor, Texas Economic Development and Tourism Office ("Office") proposes new 10 TAC §§184.1 - 184.3, 184.10 - 184.13, 184.20 - 184.22, 184.30, 184.31, 184.40 - 184.45, 184.50, and 184.51, concerning the Sports and Events Trust Fund. During its review of Chapter 184 pursuant to Section 2001.039, Texas Government Code, the Office determined current Chapter 184 should be repealed in its entirety and replaced by a new Chapter 184. The Office is proposing the repeal of the current Chapter 184 elsewhere in this issue.

### EXPLANATION AND JUSTIFICATION OF THE RULES

As part of its review under Section 2001.039, Texas Government Code, the Office determined Chapter 184, concerning Sports and Events Trust Fund (the "Program"), should be repealed and replaced in its entirety with new rules that are substantially similar, but that have been reorganized for comprehensibility and readability, and from which unnecessary or outdated language has been removed. The proposed new rules also provide additional guidance, simplicity, and clarity about the types of expenditures that may be reimbursed, the documentation required to support reimbursement requests, remove references to a program that has not been utilized, and implement other changes to promote efficiency and ensure consistency in the application of program rules.

### RULE REVIEW CHANGES

The Office, under its rulemaking authority in Sections 475.0005, 478.0002, and 480.0002, Texas Government Code, and as part of its review of existing rules, initiated a rule review under Section 2001.039, Texas Government Code, to promote clarity and administrative efficiency, aid applicants in the use of the Program, simplify rule language, and enhance the usability and comprehensibility of the rules by eliminating surplus language, clarifying provisions, restructuring complicated rules, and updating Program requirements.

### SECTION BY SECTION SUMMARY

Proposed new §184.1 is substantially similar to current §184.3 and clarifies that, if adopted, the rules applied to a request are the rules in effect at the time of a request to participate in the Major Events Reimbursement Program or the Events Trust Fund Program. Proposed new §184.1(b) also establishes the Chief of Staff of the Office of the Governor or the Chief of Staff's designees have the authority to waive any rules not statutorily imposed upon a showing that the action is appropriate. The proposed new rule also removes references to the Motor Sports Racing Trust Fund, which is a program that has not been used by the public and the Texas Legislature has not specifically directed this office to adopt rules related to that program.

Proposed new §184.2 is substantially similar to current §184.4 and updates definitions for the Events Trust Fund and the Major Events Trust Fund and relocates all definitions from the chapter to a single rule for ease of reference and clarity. The proposal establishes a new definition, "event participant," which clarifies that costs related travel, per diems, and certain other costs are limited to expenditures that directly relate to individuals whose participation is integral to the event. The proposed new §184.2 also does not include definitions from the current rule that were 1) exact or near-exact copies of definitions that exist in statute,

2) prescriptive and, therefore, better located in prescriptive rules rather than in a descriptive definitions rule, or 3) not used in any rules and do not appear in any statutes.

Proposed new §184.3 introduces a "Buy Texas" requirement that encourages applicants to utilize products or services located in Texas for items for which it will seek reimbursement when such products or services are available under comparable conditions to those offered outside of the state. The legislature found in Section 475.0003(3), Texas Government Code, that eligible events conducted in this state will provide opportunities for local and Texas businesses to create jobs that pay a living wage. New §184.3 is proposed in accordance with that legislative finding to help facilitate Texas business growth and local job creation through this Buy Texas provision.

Proposed new §184.10, which is substantially similar to current §184.11, updates and clarifies eligibility requirements for the Major Events Reimbursement Program. The proposed new rule also makes technical changes and updates statutory citations to reflect current law. Proposed new §184.10(a)(5) underscores a requirement in statute that a site selection organization must submit a human trafficking plan to the Office for an event to be eligible under the Major Events Reimbursement Program.

Proposed new §184.11 is substantially similar to current §184.12 and makes technical changes and clarifies the information and documentation required to be submitted to the Office in a request to participate in the Major Events Reimbursement Program. To better assist the Office in ensuring compliance with Section 478.0051(b), Texas Government Code, proposed new §184.11(a)(4) implements a new requirement that an applicant submit documentation to the Office that clearly demonstrates a site selection organization undertook a highly competitive selection process to select the applicable event site.

Proposed new §184.12 makes technical and clarifying edits to the Major Events Reimbursement Program deadlines and updates statutory and regulatory citations.

Proposed new §184.13 relocates current §184.33 to Subchapter B. This action consolidates all regulations that apply solely to the Major Events Reimbursement Program into a single subchapter.

Proposed new §184.20, which is substantially similar to current §184.21, updates and clarifies eligibility requirements for the Events Trust Fund Program. Proposed new §184.20(b) clarifies that an applicant may not submit more than ten events during any twelve-month period-rather than during a state fiscal year-to better align with Section 480.0051, Texas Government Code.

Proposed new §184.21 is substantially similar to current §184.22 and makes technical changes and clarifies the information and documentation applicants are required to submit to the Office in a request to establish a trust fund for the Events Trust Fund Program. To better assist the Office in ensuring compliance with Section 480.0051(1), Texas Government Code, proposed new §184.21(a)(4) implements a new requirement that an applicant submit documentation to the Office that clearly demonstrates a site selection organization undertook a highly competitive selection process to select the applicable event site.

Proposed new §184.22 makes technical and clarifying edits to the Events Trust Fund Program deadlines and updates statutory and regulatory citations.

Proposed new §184.30 is substantially similar to current §184.30 and updates requirements for the calculation and submission of attendance certification information for the Program. Specif-

ically, proposed new §184.30(b)(1) - (5) require applicants to submit available information to the Office that reflects the total amount of individuals in attendance at the applicable event—rather than general sales information or registration lists—to better reflect actual event attendance. The proposed rule clarifies that surveys may be used to assist with determining the estimated number of event attendees who are not residents of Texas, but may not be used to determine actual event attendance, unless submitted with additional data or documentation that better reflects actual event attendance. Proposed new §184.30(c) clarifies that multi-day events shall have actual attendance reported per day, as opposed to reporting the average attendance at the event, and in must be in accordance with the categories and estimated numbers of attendees upon which the economic impact study was based. Proposed new §184.30(d) updates the threshold at which the Office will reduce the amount of a disbursement if an event's actual attendance figures are significantly lower than the estimated attendance figures.

Proposed new §184.31, which is substantially similar to current §184.32, establishes that the Office may request information necessary to administer the Program and makes technical and clarifying edits.

Proposed new §184.40, which is substantially similar to current §184.40, establishes that the Office may make a disbursement from an applicable trust fund for expenditures that are obligated by an event support contract and directly attributable to the preparation for or the presentation of an event. Proposed new §184.40 also makes technical and clarifying changes to better aid applicants and the Office in its administration of the Program.

Proposed new §184.41 is substantially similar to current §184.41 and updates and clarifies the documentation applicants must submit to initiate the disbursement process for event-related expenditures. The Office routinely receives disbursement requests that lack sufficient supporting documentation, which hinders the timely administration of the Program and requires the Office to seek additional documentation or to deny requests for reimbursement that may have otherwise been approved if appropriate documentation was submitted.

Proposed new §184.42 is similar to current §184.42, but more clearly establishes the method by which applicants may request an extension of time to submit disbursement documentations and clarifies that the Office may grant such an extension upon an Applicant's showing of good cause.

Proposed new §184.43 is substantially similar to current §184.34 and makes technical changes regarding the disbursement of trust funds.

Proposed new §184.44, which is similar in substance to current §184.44, establishes that reimbursable costs must be supported by an event support contract, be directly attributable to the preparation for or presentation of the event, meet all documentation requirements, and not be a disallowed cost. Proposed new §184.44(b)(3) allows a limited reimbursement for purchased items or equipment that are retained by the applicant, and that will continue to derive value after an event. Proposed new §184.44(b)(8) no longer provides for applicants to be able to seek reimbursement for offering event facilities to site selection organizations at no cost. To better aid applicants in identifying other allowable costs, the Office proposes to expand general terms, such as costs for "barriers," and "medical services." The proposed new rule also clarifies that hourly pay or overtime compensation for certain non-health and safety personnel

is an allowable cost for disbursement. The proposed rule also updates allowable expenses for rental vehicles to reflect current market rates and clarifies the types of expenses related to meals, mileage, rental cars, parking, and other travel-related expenses that are allowable expenses. Lastly, the proposed rule no longer provides for the reimbursement of hotels and lodging, flights, and awards, as the current rules allow. Proposed new §184.44(b)(21) updates the circumstances under which the Office may reimburse host fees, participation fees, sanction fees, or other similar fees, and specifies that the reimbursement of such fees is only available to applicants under the Major Events Reimbursement Program, not the Events Trust Fund.

Proposed new §184.45 is substantially similar to current §184.45 and updates the list of costs that are not reimbursable. The new provision provides technical edits to ensure consistency with the applicable rules and statutes. The proposed rule establishes that no taxes—including those imposed by other states, local governments, and the federal government, as well as fees related to the environment, heavy equipment usage, or fuel surcharges—that the applicant paid may be reimbursed. To ensure consistency with current rules relating to the purchase of personal items or services, the rule prohibits reimbursement for items that will derive future value at separate events and that are retained by individuals or entities other than the applicant. The proposed rule clarifies the circumstances under which the Office will not reimburse host fees, participation fees, sanction fees, or other similar fees. The proposal clarifies what the Office considers to be "hospitality" expenditures.

Proposed new §184.50, which is substantially similar to current §184.50, implements technical edits and updates that simplify the requirements for an Event Support Contract.

Proposed new §184.51, which is substantially similar to current §184.51, implements technical edits and updates to clarify and simplify event support contract guidelines. Proposed new §184.51(c)(4) requires applicants to clearly detail event-related expenditures in an event support contract.

#### FISCAL NOTE

Adriana Cruz, Executive Director of Texas Economic Development and Tourism Office, Office of the Governor, has determined that the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction of costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Ms. Cruz has determined that enforcing or administering the rules does not have foreseeable implications relating to the costs or revenues of state or local government.

#### PUBLIC BENEFIT

Ms. Cruz has determined for the first five-year period the proposed rules are in effect there will be a benefit to applicants and the general public because the proposed rules replace the repeal of the current rules related to the Events Trust Fund and the Major Events Reimbursement Program (collectively referred to as the "Program") and will provide greater clarity and consistency within the rules. Ms. Cruz has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to offer clarity to applicants and help the Office better administer the Program.

#### PROBABLE ECONOMIC COSTS



Ms. Cruz has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with the proposed rules.

#### REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES.

Ms. Cruz has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Office is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

Ms. Cruz has determined that the proposed rules will have no impact on local employment or a local economy. Thus, the Office is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

#### GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Cruz has determined that during each year of the first five years in which the proposed rules are in effect, the rules:

- 1) will not create or eliminate a government program;
- 2) will not require the creation of new employee positions or the elimination of existing employee positions;
- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) will create new regulations;
- 6) will expand certain existing regulations, limit certain existing regulations, and repeal existing regulations;
- 7) will not increase or decrease the number of individuals subject to the applicability of the rules; and
- 8) will not positively or adversely affect the Texas economy.

#### TAKINGS IMPACT ASSESSMENT

Ms. Cruz has determined that there are no private real property interests affected by the proposed rules. Thus, the Office is not required to prepare a takings impact assessment pursuant to Section 2007.043, Texas Government Code.

#### REQUEST FOR PUBLIC COMMENTS

Comments on the proposed rules may be submitted to Gene Cervenka, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78701, or by email to [eventsfund@gov.texas.gov](mailto:eventsfund@gov.texas.gov) with the subject line "Events Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on June 21, 2024, which is at least 30 days from the date of publication in the *Texas Register*.

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

#### 10 TAC §§184.1 - 184.3

#### STATUTORY AUTHORITY.

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under Section 2001.039, Texas Government Code.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter A. No other statutes, articles, or codes are affected by the proposed rules.

##### §184.1. Construction of Rules.

(a) The Office of the Governor will apply the rules in effect at the time of a request to participate in the Major Events Reimbursement Program or Events Trust Fund Program.

(b) The Chief of Staff or designee may suspend or waive any provision not statutorily imposed, in whole or in part, when, at the discretion of the Chief of Staff or designee, the particular facts or circumstances render such waiver of the Section appropriate in a given instance.

##### §184.2. General Definitions.

The words and terms used in this Chapter have the meanings ascribed to them in the statutes governing the programs established in Title 4, Subtitle E-1, Texas Government Code, or as defined in this Section:

(1) Applicant--A local government corporation that meets the requirements of Section 475.0151, Texas Government Code; an endorsing municipality; an endorsing county; or a local organizing committee, that submits to the Office an application to participate in the Major Events Reimbursement Program or Events Trust Fund Program.

(2) Day--A calendar day.

(3) Direct cost--Any cost that is directly attributable to the preparation for or presentation of an event and:

(A) for purposes of Major Events Reimbursement Program events, are necessary or desirable for the preparation for or presentation of an event;

(B) for purposes of Events Trust Fund events, are necessary for the preparation for or presentation of an event; and

(C) does not include:

(i) any expense that the Office, in its sole discretion, determines is an indirect, administrative, or overhead cost;

(ii) any discount or concession amounts related to venue rental; or

(ii) any expense that is recouped or refunded by other parties relating to the same expense or obligation.

(4) Direct spending--The amount of incremental increase in tax receipts for the 30-day period that ends one day after the last day of the event that are directly attributable to spending related to the preparation for or presentation of an event.

(5) Estimate--The Office's determination of the incremental increase in tax receipts that are directly attributable to the preparation for or presentation of an event eligible to be deposited in the trust fund for an eligible event.

(6) Event participant--An individual whose participation is integral to the presentation of an event, such as an event competitor, judge, timekeeper, scorekeeper, referee, or other similar person.

(7) Events Trust Fund--The fund established by the Office for the event pursuant to Section 478.0152, Texas Government Code.

(8) Local organizing committee--A nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively to pursue an application and bid with a site selection organization for selection as the site of an event; or

(B) with the authorization of an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively, has executed an agreement with a site selection organization regarding a bid to host an event.

(9) Local share--The contribution to the fund made by or on behalf of an applicant pursuant to Texas Government Code Sections 478.0152, 478.0153, 480.0152, or 480.0153.

(10) Major Events Reimbursement Program Trust Fund--The trust fund established by the Office for the event pursuant to Texas Government Code Section 478.0152.

(11) Market area--The geographic area within which the Office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for or presentation of the event and related activities.

(12) Office--The Texas Economic Development and Tourism Office within the Office of the Governor.

(13) Publicly owned property--Any property that is owned by a governmental unit as defined by Texas Civil Practices and Remedies Code, Section 101.001(3).

(14) Trust fund--The fund created by the Texas Comptroller of Public Accounts, at the direction of the Office and designated as either the Major Events Reimbursement Program Fund or Events Trust Fund for the event.

§184.3. Buy Texas.

Applicants shall utilize products or services located in Texas for items for which it will seek reimbursement from a trust fund when such products or services are available at a comparable price and in a comparable period of time to products produced or for services offered outside this state. When requested by the Office, the applicant shall furnish documentation of direct costs or a description of good faith efforts to do so.

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 June 21, 2024.

TRD-202402734

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100

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SUBCHAPTER B. GENERAL REQUIREMENTS: MAJOR EVENTS REIMBURSEMENT PROGRAM

10 TAC §§184.10 - 184.13

STATUTORY AUTHORITY.

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under section 2001.039.

CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter B. No other statutes, articles, or codes are affected by the proposed rules.

§184.10. Eligibility.

(a) An event is eligible for participation in the Major Events Reimbursement Program if:

(1) the event and the site selection organization for the event are identified in Sections 478.0001(3) and (7), Texas Government Code;

(2) a site selection organization selects a site in Texas after conducting a highly competitive selection process, and:

(A) the site selection organization considered one or more sites that are not located in this state; and

(B) the event will be held:

(i) no more than one time in a calendar year; or

(ii) each year for a period of years under an event support contract, but no more than one time each calendar year for the term of the event support contract; and

(3) the site selected in this state is:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states;

(4) the Office determines that the incremental increase in tax receipts equals or exceeds \$1 million per year for the event; and

(5) not later than the 30th day before the first day of the event, the site selection organization submits a plan to prevent the trafficking of persons in accordance with Section 478.0051(b)(5), Texas Government Code.

(b) For a multi-year event described in Subsection (a)(2)(B)(ii) of this Section, the Office shall calculate the incremental increase in tax receipts as if the event did not occur in a prior year for purposes of Subsection (a)(4) of this Section.

(c) The requirements of Subsection (a)(2) of this Section do not apply to an event described by Section 478.0053, Texas Government Code.

(d) An applicant is prohibited from receiving disbursements for the same event under more than one type of program authorized in Title 4, Subtitle E-1, Texas Government Code, but qualified applicants that were denied participation in the Major Events Reimbursement Program may apply for the Events Trust Fund Program.

§184.11. Request to Participate in the Major Events Reimbursement Program.

(a) An applicant seeking the establishment of a trust fund for the Major Events Reimbursement Program must submit:

(1) a completed and signed application;

(2) a communication from the municipality or county in which the event will be held, signed by a person with authority to bind the municipality or county, in which the municipality or county requests to participate in the trust fund program;

(3) a signed letter from the site selection organization selecting the site in Texas that includes information necessary to establish that the site was selected through a highly competitive selection process, including, but not limited to, all locations that submitted bids to host the event;

(4) documents that reflect the site selection organization engaged in a highly competitive selection process and considered at least one location outside of Texas to host the event as detailed in §184.41(b)(3) of this Chapter, concerning Documentation Required to Initiate Disbursement Process;

(5) the economic impact study specified in Subsection (b) of this Section, and any other data specified by the Office; and

(6) unless excepted under §184.10(c) of this Chapter, concerning Eligibility, documentation sufficient to establish that, prior to selecting the applicant's location as the site of the event, the site selection organization considered one or more sites not in this state to locate and conduct the event, including:

(A) the bid documentation the applicant submitted to the site selection organization as part of the highly competitive selection process to demonstrate the applicant's suitability and desirability as the location to host the event; and

(B) other documentation that indicates a highly competitive selection process occurred, such as:

(i) communications made by or on behalf of the applicant to the site selection organization;

(ii) documents from reputable third-party sources, such as news articles, public postings, or notices; and

(iii) communications between the site selection organization and all non-Texas sites.

(b) The economic impact study referenced in Subsection (a)(5) of this Section must:

(1) include sufficient data for the Office to determine the estimated incremental increase in tax revenue directly attributable to the preparation for or presentation of the event or activities directly related to the event, including:

(A) detailed information about the event-related expenditures of attendees, including an estimate of the spending of people expected to attend the event who are not residents of this state;

(i) during a reasonable time prior to and after the event and during the event; and

(ii) in the market area of the event;

(B) if available, information about event expenditures incurred or to be incurred by the event organizers; and

(C) if the applicant requests the Office to consider secondary impacts of the event, any other data or information addressing the secondary economic impact of the event in the requested market area during the ten months immediately following the last day of the event must be provided separately and in an easily distinguishable manner from data listed in Subparagraph (A) of this Paragraph;

(2) address only the incremental increase in tax receipts for the tax types identified in Section 478.0102(1)-(5), Texas Government Code; and

(3) include a certification from the persons who prepared the study, attesting to the accuracy of the information provided.

(c) The request for participation and the economic impact report shall propose and provide information supporting the applicant's desired market area. The Office, in its sole discretion, shall make the final determination of the market area. The applicant must include in the market area an endorsing municipality or endorsing county that has been selected as the site for the event.

(d) The request for participation and the economic impact report shall include a list of all event activities proposed to be included in the estimate, and must include data for each activity, including, at a minimum:

(1) projected attendance figures;

(2) the methodology from §184.30 of this Chapter, concerning Attendance Certification, that will be used for determining the total actual attendance at the event;

(3) the projected spending of attendees, including an estimate of the spending of people expected to attend the event who are not residents of this state; and

(4) any anticipated expenditure information related to the activity.

(e) The request for participation must be accompanied by a certification provided by an authorized representative from any participating endorsing municipality, endorsing county, and local organizing committee attesting to the accuracy of the information provided.

(f) A request for participation must be submitted not earlier than one year and not later than 45 days before the day the event begins. Requests submitted outside this time frame shall not be reviewed.

(g) All requests and required documentation shall be submitted electronically to: [eventsfund@gov.texas.gov](mailto:eventsfund@gov.texas.gov).

(h) The Office shall determine the amount of incremental increase in tax receipts not later than the 30th day after the day the Office receives the completed request for participation and all related information required by this Chapter.

(i) The Office may reject a request for participation that does not meet the requirements established by this Section. The Office may also seek clarification or supplementation of information submitted under this Section if the information sought would not, in the Office's sole discretion, materially change the request for participation.

§184.12. Major Events Reimbursement Program Deadlines.

(a) Application Deadline. Applications for participation in the Major Events Reimbursement Program must be submitted not earlier than one year and not later than 45 days before the first day of the event.

(b) Determination Deadline. Not later than the 30th day after the day the Office receives a completed request for participation and all required information, the Office will determine:

(1) whether the event meets the eligibility requirements of Chapter 478, Texas Government Code, for the establishment of a Major Events Reimbursement Program Fund; and

(2) the amount of incremental increase in tax receipts that is directly attributable to the preparation for or presentation of the event.

(c) Event Support Contract Submission. Before the first day of the event, the applicant shall submit an event support contract compliant with Subchapter F of this Chapter, concerning Event Support Contracts, and any other documentation required by this Chapter. If the event support contract is not timely submitted, the Office shall disqualify the applicant from participation in the program for that event, thereby rendering the applicant ineligible for reimbursements from the trust fund established for the event.

(d) Attendance Certification Deadline. The applicant shall submit the attendance certification and supporting documentation required by §184.30 of this Chapter, concerning Attendance Certification, not later than 45 days after the last day of the event. If the attendance documentation for the event is not timely submitted, the Office shall disqualify the applicant from participation in the program, thereby rendering the applicant ineligible for reimbursements from the trust fund established for the event.

(e) Local Share Submission. Not later than 90 days after the last day of the event, the applicant shall remit to the Office the local share contribution to the fund made by or on behalf of an applicant pursuant to Sections 478.0152 and 478.0153, Texas Government Code. The applicant shall not submit the local share on a weekend or state holiday. If the local share is not timely submitted, the Office shall close the trust fund established for the event.

(f) Disbursement Request Submission. The applicant shall submit all requests for disbursements from the trust fund and supporting documentation no later than 180 days after the last day of the event. The Office shall disqualify any disbursement requests that are not timely submitted, thereby making any untimely requests ineligible for reimbursement. Notwithstanding anything in this Section to the contrary, the Office may request and consider additional supporting documentation related to timely submitted disbursement requests at any time, regardless of whether the Office receives such information after the deadline established by this Subsection.

(g) An applicant must provide an annual audited financial statement required by the Office no later than the end of the fourth month after the date the period covered by the financial statement ends.

§184.13. Post-Event Report Information for Major Events Reimbursement Program.

Upon request by the Office, an applicant to the Major Events Reimbursement Program must provide to the Office any information the Office determines is necessary to comply with its post-event reporting requirements in Section 478.0107, Texas Government Code.

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

Filed with the Office of the Secretary of State on June 21, 2024.  
TRD-202402735

Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100

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**SUBCHAPTER C. GENERAL REQUIREMENTS: EVENTS TRUST FUND PROGRAM**

**10 TAC §§184.20 - 184.22**

**STATUTORY AUTHORITY.**

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under section 2001.039.

**CROSS REFERENCE TO STATUTE**

Chapter 184, Subchapter C. No other statutes, articles, or codes are affected by the proposed rules.

§184.20. Eligibility.

(a) An event is eligible for participation in the Events Trust Fund Program if:

(1) a site selection organization selects a site in Texas after conducting a highly competitive selection process:

(A) the site selection organization considered one or more sites that are not located in this state; and

(B) the event will be held:

(i) no more than one time in a calendar year; or

(ii) each year for a period of years under an event support contract, but no more than one time each calendar year for the term of the event support contract; and

(2) the site selected in this state is:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states.

(b) During any twelve-month period, an applicant may not submit more than 10 events--only three of which may be non-sporting events--for reimbursement under the Events Trust Fund Program for which the Office determines that the amount of the incremental increase in tax receipts is less than \$200,000. For purposes of this Subsection, a "sporting event" is an event that has the primary purpose of conducting recreational or competitive athletic or physical activities, including individual, team, equestrian, or automotive competitions.

(c) An applicant is prohibited from receiving disbursements for the same event under more than one type of program authorized in Title 4, Subtitle E-1, Texas Government Code, but qualified applicants

that that were denied participation in the Events Trust Fund Program may apply for the Major Events Reimbursement Program.

§184.21. Request to Establish a Trust Fund.

(a) An applicant seeking the establishment of a trust fund for the Events Trust Fund Program must submit:

(1) a completed and signed application;

(2) a communication from the municipality or county in which the event will be held, signed by a person with authority to bind the municipality or county, in which the municipality or county requests to participate in the trust fund program;

(3) a signed letter from the site selection organization selecting the site in Texas that includes information necessary to establish that the site was selected through a highly competitive selection process, including, but not limited to, all locations that submitted bids to host the event;

(4) documents that reflect the site selection organization engaged in a highly competitive selection process and considered at least one location outside of Texas to host the event as detailed in §184.41(b)(3) of this Chapter, concerning Documentation Required to Initiate Disbursement Process;

(5) the economic impact study or other data specified in Subsection (b) of this Section; and

(6) documentation sufficient to establish that, prior to selecting the applicant's location as the site of the event, the site selection organization considered one or more sites not in this state to locate and conduct the event, including:

(A) the bid documentation the applicant submitted to the site selection organization as part of the highly competitive selection process to demonstrate the applicant's suitability and desirability as the location to host the event; and

(B) other documentation that indicates a highly competitive selection process occurred, such as:

(i) communications made by or on behalf of the applicant to the site selection organization;

(ii) documents from reputable third-party sources, such as news articles, public postings, or notices; and

(iii) communications between the site selection organization and all non-Texas sites.

(b) The economic impact study referenced in Subsection (a)(5) of this Section must:

(1) include sufficient data for the Office to determine the estimated incremental increase in tax revenue directly attributable to the preparation for or presentation of the event or activities directly related to the event, including:

(A) detailed information about the event-related expenditures of attendees, including an estimate of the spending of people expected to attend the event who are not residents of this state:

(i) during a reasonable time prior to and after the event and during the event; and

(ii) in the market area of the event; and

(B) if available, information about event expenditures incurred or to be incurred by the event organizers;

(2) address only the incremental increase in tax receipts for the tax types identified in Section 480.0102 (1)-(5), Texas Government Code; and

(3) include a certification from the persons who prepared the study, attesting to the accuracy of the information provided.

(c) The request for participation and the economic impact report shall propose and provide information supporting the applicant's desired market area. The Office, in its sole discretion shall make the final determination of the market area. The applicant must include in the market area an endorsing municipality or endorsing county that has been selected as the site for the event.

(d) The request for participation and the economic impact report shall include a list of all event activities proposed to be included in the estimate, and must include data for each activity, including, at a minimum:

(1) projected attendance figures;

(2) the methodology that will be used for determining the total actual attendance at the event;

(3) the projected spending of attendees, including an estimate of the spending of people expected to attend the event who are not residents of this state; and

(4) any anticipated expenditure information related to the activity.

(e) The request for participation must be accompanied by a certification provided by an authorized representative from each endorsing municipality, endorsing county, and local organizing committee, if applicable, attesting to the accuracy of the information provided.

(f) A request for participation must be submitted not later than 120 days before the day the event begins. The Office will disqualify and not consider requests submitted later than this deadline.

(g) All requests and required documentation shall be submitted electronically to: [eventsfund@gov.texas.gov](mailto:eventsfund@gov.texas.gov).

(h) The Office shall determine the amount of incremental increase in tax receipts not later than the earlier of:

(1) the 30th day after the day the Office receives the completed request for participation and all related information required by this Section; and

(2) three months before the day of the event.

(i) The Office may reject a request for participation that does not meet the requirements established by this Section. The Office may also seek clarification or supplementation of information submitted under this Section if the information sought would not, in the Office's sole discretion, materially change the request for participation.

§184.22. Events Trust Fund Program Deadlines.

(a) Application Deadline. Applications for participation in the Events Trust Fund Program must be submitted no later than 120 days before the first day of the event.

(b) Determination Deadline. Not later than the earlier of the 30th day after the day the Office receives a completed request for participation and all required information and three months before the day of the event, the Office will determine:

(1) whether the event meets the eligibility requirements of Chapter 480, Texas Government Code, for the establishment of an Events Trust Fund; and

(2) the amount of incremental increase in tax receipts that is directly attributable to the preparation for or presentation of the event.

(c) Event Support Contract Submission. Before the first day of the event, the applicant shall submit an event support contract com-

pliant with Subchapter F of this Chapter, concerning Event Support Contracts, and any other documentation required by this Chapter. If the event support contract is not timely submitted, the Office shall disqualify the applicant from participation in the program for that event, thereby rendering the applicant ineligible for reimbursements from the trust fund established for the event.

(d) Attendance Certification Deadline. The applicant shall submit the attendance certification and supporting documentation required by §184.30 of this Chapter, concerning Attendance Certification, not later than 45 days after the last day of the event. If the attendance documentation for the event is not timely submitted, the Office shall disqualify the applicant from participation in the program, thereby rendering the applicant ineligible for reimbursements from the trust fund established for the event.

(e) Local Share Submission. Not later than 90 days after the last day of the event, the applicant shall remit to the Office the local share contribution to the fund made by or on behalf of an endorsing municipality or endorsing county pursuant to Sections 480.0152 and 480.0153, Texas Government Code. The applicant shall not submit the local share on a weekend or state holiday. If the local share is not timely submitted, the Office shall close the trust fund established for the event.

(f) Disbursement Request Submission. The applicant shall submit all requests for disbursements from the trust fund and supporting documentation by not later than 180 days after the last day of the event. The Office shall disqualify any disbursement requests that are not timely submitted, thereby making those untimely requests ineligible for reimbursement. Notwithstanding the anything in this Section to the contrary, the Office may request and consider additional supporting documentation related to timely submitted disbursement requests at any time, regardless of whether the Office receives such information after the deadline established by this Subsection.

(g) An applicant must provide an annual audited financial statement required by the Office no later than the end of the fourth month after the date the period covered by the financial statement ends.

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 June 21, 2024.

TRD-202402736

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100



## SUBCHAPTER D. REQUIRED REPORTS

### 10 TAC §184.30, §184.31

#### STATUTORY AUTHORITY.

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires

state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under section 2001.039.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter D. No other statutes, articles, or codes are affected by the proposed rules.

#### §184.30. Attendance Certification.

(a) Not later than 45 days after the last day of the approved event, the applicant shall submit an attendance certification based upon a methodology approved by the Office. The certification must be signed by the person who signed the original request for participation or that person's successor, and must include:

(1) total actual attendance;

(2) the estimated number of attendees at the approved event that are not residents of Texas; and

(3) the verifiable source for such numbers.

(b) Approved attendance methodologies are:

(1) ticket scan counts;

(2) turnstile counts;

(3) registration totals;

(4) event participant totals; and

(5) another methodology that is approved by the Office, in its sole discretion, prior to the first day of the event. Surveys shall only be used to assist with determining the estimated number of attendees who are not residents of Texas, and not for actual attendance counts, unless submitted with additional data or documentation that the Office, in its sole discretion, approves.

(c) For purposes of this Section, actual attendance shall be reported:

(1) if the event lasts for more than one day, as actual, not average, attendance per day; and

(2) in accordance with the categories and estimated numbers of attendees upon which the economic impact study was based.

(d) If the actual attendance figures are significantly lower than the estimated attendance numbers, the Office may reduce the amount of a disbursement for an applicant under the trust fund in proportion to the difference and in proportion to the amount contributed to the fund by the entity. Actual attendance at an event is considered significantly lower than estimated attendance when the difference is 15% or greater.

#### §184.31. Other Information Required by the Office.

(a) Upon request of the Office, the applicant must provide to the Office any additional information, including financial information, that the Office determines is necessary to verify event-related expenditures or to administer the program.

(b) If the applicant fails or refuses to timely provide any information required by statute or this Section, the Office may disqualify the applicant from receiving disbursements from the trust fund established for the event.

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 June 21, 2024.

TRD-202402737  
Gene Cervenka  
Senior Finance Program Specialist  
Office of the Governor, Economic Development and Tourism Office  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 936-0100



## SUBCHAPTER E. DISBURSEMENT PROCESS

### 10 TAC §§184.40 - 184.45

#### STATUTORY AUTHORITY.

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under section 2001.039.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter E. No other statutes, articles, or codes are affected by the proposed rules.

#### §184.40. Disbursements for Direct Costs.

(a) Disbursements from the trust fund established for the event shall be issued by the Office to reimburse only allowable direct costs that are directly attributable to the preparation for, or presentation of, the approved event related to:

(1) preparing for and presentation of an event in this state in accordance with the event support contract;

(2) the construction, improvement, or renovation of facilities necessary to conduct the event and that are directly attributable to fulfilling obligations of the event support contract, to the extent such expenditures are authorized by law, including Sections 478.0204(b) or 480.0204(b), Texas Government Code, as applicable, and to the extent such expenditures are required by the site selection organization; and

(3) paying the principal of and interest on notes issued by an endorsing municipality or endorsing county in accordance with Sections 478.0204(a) or 480.0204(a), Texas Government Code, as applicable.

(b) Disbursements from the trust fund may not be used to make payments to an applicant or any other entity in relation to expenditures that are not directly attributable to allowable direct costs as set forth in §184.44 of this Chapter, concerning Allowable Direct Costs. Disbursements are subject to verification or audit prior to or after payment by the Office.

#### §184.41. Documentation Required to Initiate Disbursement Process.

(a) To initiate the disbursement process, the applicant must electronically submit to the Office, no later than 180 days after the last day of the event, the following documentation in a format required by the Office:

(1) a signed disbursement request in the form prescribed by the Office;

(2) an explanation of the expenditures for which the applicant seeks reimbursement in a form prescribed by the Office and with sufficient detail to enable the Office to determine the nature and specifics of the expenditures; and

(3) verifiable source documentation, as detailed in Subsection (b) of this Section, labeled to correspond to the explanation provided in the form required in Paragraph (2) of this Subsection, and that supports the calculation and payment of each expenditure for which the applicant seeks reimbursement.

(b) Unless otherwise approved by the Office before submission, all verifiable source documentation must meet the standards established in this Subsection.

(1) Invoice. A copy of an original invoice or similar documentation that provides a sufficiently detailed, itemized description of the goods or services purchased, including the following:

- (A) the date of the invoice or similar documentation;
- (B) the name of the entity or individual requesting payment;
- (C) the method by which costs were calculated;
- (D) the price of the goods or services;
- (E) the dates on which the goods or services were delivered or provided;
- (F) the location to which the goods or services were delivered or provided; and
- (G) the terms of sale, if any.

(2) Proof of Payment. Documentation that provides sufficient evidence of the transmission, transfer, or payment of the expenditure, including:

- (A) front and back copy of a cleared check;
- (B) bank statement reflecting the transaction;
- (C) credit card receipt or credit card statement reflecting the charge;
- (D) \$0.00 invoice or vendor statement reflecting an invoice was paid in full; or
- (E) electronic funds transfer or automated clearing house report accompanied by a bank statement.

(3) Internal billing. If applicable, documentation providing justification for expenditures incurred under an event support contract by an applicant for charges for services or facilities provided by a municipality or county for an event, including facility rentals and charges for police, fire, or emergency medical services. The documentation must also detail the direct correlation between the internal billing expenditure and the event.

(4) Advertising, publications, and signage. If applicable, copies of advertising, publications, physical promotional materials, or signage specific to the event. An applicant may submit photographs of advertising, physical promotional materials, and signage in lieu of providing a sample of the actual advertisement or sign.

(5) Staffing costs. If applicable, documentation with clear, verifiable data that details the titles of individuals who worked to prepare for or present the event, the hours they worked, and the description of work they performed, including:

- (A) detailed timesheets; and

(B) agreements and payment information to contract labor for the event.

(6) Expenses of a local organizing committee. If applicable, documentation that reflects prior approval of the disbursement request by each contributing endorsing municipality and endorsing county.

(c) An applicant shall retain all records related to an event for at least seven years following the last day of the event and must make such records available to the Office upon request.

(d) An applicant may redact information not related to the event from any documentation submitted under this Section.

(e) If an applicant, site selection organization, or other third party considers information submitted to the Office to be confidential or excepted from disclosure, the information must be clearly marked as confidential or as excepted from disclosure.

§184.42. Extension of Time to Submit Disbursement Documentation.

(a) The Office may, in its sole discretion, grant an extension to an applicant to submit information required for a completed disbursement request after the 180th day after the last day of the event if the applicant timely submits a request for an extension in accordance with Subsection (b) of this Section and the Office determines the applicant showed good cause or when the particular facts or circumstances render an extension appropriate in a given instance.

(b) The applicant must submit an extension request in a form required by the Office before the 180th day after the last day of the event and must include its justification for the proposed extension of time.

§184.43. Disbursement of Trust Funds.

(a) The Office will only consider a disbursement request that:

(1) is supported by an event support contract;

(2) requests reimbursement for payments or obligations for allowable direct costs; and

(3) is complete, supported by proof of payment or internal billing documentation, and includes all event reimbursements being sought by the applicant for disbursement.

(b) The Office may request additional supporting documentation or justification regarding any costs submitted for a disbursement. The Office, at its sole discretion, may withhold disbursements pending the receipt of any information the Office determines is necessary to appropriately document and support the eligibility of items related to the reimbursement. The Office may deem requests for reimbursement ineligible if the applicant fails to provide the information requested by the Office.

(c) The Office shall not make any disbursements for direct costs until the applicant satisfies all reporting requirements under Subchapter D of this Chapter, concerning Required Reports.

(d) After disbursing all approved reimbursement payments, the Office will return any unexpended balance remaining in the trust fund to each endorsing entity in proportion to the local share contributed by the entity. Any unexpended state share shall be returned to the Comptroller of Public Accounts.

(e) A disbursement made from the trust fund by the Office in satisfaction of an applicant's obligation shall be satisfied proportionately from the state and local share in the trust fund in the proportion of 6.25:1 of state funds to local share, notwithstanding any agreements to the contrary made by an applicant.

(f) If the Office determines, based on information obtained from verifiable sources, including any monitoring, inspection, review or audit conducted by the Office or its authorized representatives, that the applicant received a disbursement in excess of the amount to which the applicant is entitled under applicable law and regulations, or that the applicant provided erroneous information that resulted in an overstatement of the estimated incremental tax receipt increase for an event, then the Office may withhold, offset, recoup, or otherwise require the return of any excess disbursement amounts.

§184.44. Allowable Direct Costs.

(a) The Office may only reimburse costs that:

(1) are required by or provided for under the event support contract;

(2) are not otherwise unallowable by federal or state laws or regulations, including §184.45 of this Chapter, concerning Unallowable Costs;

(3) the Office, in its sole discretion, determines are directly attributable to the preparation for or presentation of the event; and

(4) meet the documentation and other requirements established in statute and this Chapter.

(b) Subject to the requirements of Subsection (a) of this Section, the Office may reimburse the following:

(1) preparation for or presentation of the event in accordance with the event support contract;

(2) structural improvements or fixtures for an event authorized by Sections 478.0205 or 480.0205, Texas Government Code;

(3) any purchased items or equipment, that are otherwise acceptable under this Section, which will continue to derive value after the event and are retained only by the applicant, but reimbursement for such items or equipment is limited to five percent of the cost of the item or equipment;

(4) financing event sites in accordance with Sections 480.0204(a)(1) and 478.0204(a)(1), Texas Government Code;

(5) performance bonds or insurance required for hosting the event;

(6) temporary maintenance to property impacted by the conduct of the event that is directly related to the preparation for or presentation of the event;

(7) expenditures for the public health or safety of people or animals involved in hosting, attending, or participating in the event, including:

(A) water;

(B) security;

(C) professional fire marshal or engineer requirements for event facilities and other event related property or equipment;

(D) portable restrooms, trash receptacles, and other types of sanitation necessities;

(E) shade;

(F) lighting and sound equipment required for security or public safety;

(G) traffic planning and management;

(H) severe weather planning and mitigation;

(I) way-finding signage or staff;



(J) barriers needed for traffic control, crowd control, or similar functions;

(K) required permits and professional or consulting services engaged to acquire permits;

(L) stand-by services, such as medical services, including medical trainers and veterinarians;

(M) accommodations required by and goods or services necessary to remain in compliance with the Americans with Disabilities Act;

(N) public health or safety command center expenses;

(O) credentials; and

(P) costs needed for police, fire, and other emergency operations staff.

(8) event facility costs, including:

(A) cost to rent an event facility, including any internal billing, if the terms of the event support contract require the applicant to reimburse the site selection organization for the cost to rent a facility; and

(B) rental of seating or other furnishings, supplies, or equipment;

(9) labor and other expenditures for staffing services directly attributable to the preparation for or presentation of the event that are performed during the event and within a reasonable time prior to and after the event, including:

(A) hourly pay or overtime for personnel engaged to promote the public health or safety of the event;

(B) hourly pay or overtime for non-health and safety personnel who are hired or contracted specifically to meet objectives of an event; or

(C) compensation for referees, score keepers, timers, and other similar officials required to meet the objectives of an approved event;

(10) market-area transportation and/or parking services, not including personal travel, that are used during the event or within a reasonable time prior to or after the event and are not otherwise compensated or recovered;

(11) temporary signs and banners created specifically for the event;

(12) advertising that:

(A) occurs prior to or during the event; and

(B) includes the event name, date, and location of the event;

(13) promotional items that are nominal in value and created specifically to promote the event;

(14) production costs associated with the production of the event, including staging, rigging, sound and lighting systems;

(15) uniforms created specifically for the event for the use by staff or volunteers;

(16) goods or services necessary to address, prepare for, or remediate the effects of inclement weather that occurs during or immediately before or after the event;

(17) services necessary for the performance of the national anthem of the United States or a foreign nation at the event;

(18) photography or videography services engaged to document the event;

(19) food, the provision of which is directly related to the presentation of the event, is provided on-site to event participants and volunteers, and the value of which does not exceed the CPA's Current Travel Reimbursement Rates;

(20) meals, automobile mileage, rental car, parking fees, and toll fares that meet the following requirements:

(A) the expenditure directly relates to an event participant's participation in the event;

(B) the expenditure is directly related to the preparation for or presentation of the event;

(C) the event participant to whom the expenditure relates does not reside in the event market area;

(D) for automobile mileage, the expenditure does not exceed the allowable rates for state employees, as specified by the CPA's Current Travel Reimbursement Rates; and

(E) for vehicle rentals, the expenditure does not exceed the regular rates for a standard vehicle of the type rented; and

(21) if the event is eligible for the Major Events Reimbursement Program under §184.10 of this Chapter, concerning Eligibility, fees that are payable by the applicant for the right to present or host the event--including hosting fees, sanction fees, participation fees, or other fees the Office, in its sole discretion, determines are similar to such fees--that:

(A) are clearly stated in the application for participation in the trust fund program;

(B) are paid to the site selection organization or entity designated as the recipient of the fees in the event support contract; and

(C) do not include separate expenses associated with conducting the event.

§184.45. Unallowable Costs.

(a) Disbursements for the following costs are prohibited, regardless of their inclusion in an event support contract:

(1) any tax the Office, in its sole discretion, determines is a contribution imposed by a local, state, or federal government or other taxing entity upon an individual or business entity, whether under the name of a charge, surcharge, toll, tribute, tallage, gabel, impost, duty, custom, excise, subsidy, aid, supply, environmental charge, heavy equipment tax, fuel surcharge, or other name;

(2) gifts of any kind, including tips, gratuities, or honoraria;

(3) grants to any person, entity, or organization;

(4) alcoholic beverages;

(5) food not specifically authorized in §184.44(b)(20) or (22) of this Chapter, concerning Allowable Direct Costs;

(6) travel not specifically authorized in §184.44(22) of this Chapter;

(7) costs related to an applicant's application or participation in the trust fund program, including, but not limited to:

(A) representing any entity, including an applicant or related party, in front of the legislature for any reason;

(B) representing any entity, including an applicant or related party, in front of the Office for the purpose of applying to or seeking reimbursement from the trust fund;

(C) preparing an application to the reimbursement program, a disbursement request, or other event-related documents;

(D) preparing a pre-event or post-event economic impact study;

(E) preparing a pre-event attendance estimate or post-event attendance verification;

(F) conducting any pre-event or post-event survey; or

(G) costs associated with responding to requests for information relating to participation in the program, including requests for information from the Office, the Texas State Auditor's Office, or pursuant to the requirements of the Texas Public Information Act, Chapter 552, Texas Government Code.

(8) expenses related to:

(A) monetary compensation to individuals for participation or competitive performance in an event, including, but not limited to, cash, gift cards, or pre-paid service certificates;

(B) gaming;

(C) raffles; or

(D) giveaways that do not meet the requirements of §184.44(14) of this Chapter;

(9) costs for any personal items or services;

(10) equipment, items, or supplies that will derive future value separate from the event, and are retained by individuals or entities other than the applicant;

(11) hospitality items not available to the general public, appearance or talent fees, and any expenditures related to "VIP" expenses except as permitted under §184.44(18) of this Chapter;

(12) reimbursement of any cost not incurred, such as for lost profit or for an exchange-in-kind or product;

(13) damages of any kind, including damages or lost revenue resulting from inclement weather, notwithstanding §184.44(17) of this Chapter;

(14) any cost or expense of, or related to, constructing an arena, stadium, or convention center;

(15) any cost or expense related to conducting usual and customary maintenance of a facility;

(16) any amount in excess of 5.0% of the cost of any structural improvement made or fixture for an event that is added to a site that is privately owned property where the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events;

(17) costs that are not direct costs;

(18) any costs, the reimbursement of which the Office determines, in its sole discretion, could result in a payment to or from a party with an inappropriate conflict of interest;

(19) if the event is an Events Trust Fund event described in subchapter C of this chapter, fees that are payable by the applicant for the right to present or host the event—including hosting fees, sanction fees, participation fees, or other fees the Office, in its sole discretion, determines are similar to such fees; and

(20) any expense or obligation that was recouped, refunded, or otherwise recovered, or that will be recouped, refunded, or otherwise recovered from another entity under the event support

contract relating to the same expense or obligation, the reimbursement of which could result a net surplus to the applicant.

(b) The Office may deny a disbursement for any event, cost, expense, or obligation the Office deems fiscally irresponsible or not supportive of program objectives.

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 June 21, 2024.

TRD-202402738

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100



## SUBCHAPTER F. EVENT SUPPORT CONTRACTS

### 10 TAC §184.50, §184.51

#### STATUTORY AUTHORITY.

The rules are proposed under Sections 478.0002 and 480.0002, Texas Government Code, which authorize the Office to make rules necessary to implement Chapter 478 and 480, Texas Government Code, respectively. The rules are also proposed pursuant to Section 475.0004, Texas Government Code, which directs the Office to adopt rules to ensure efficient administration of trust fund programs, including rules related to application and receipt requirements. The Office also proposes these rules under Section 2001.004, Texas Government Code, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Finally, the rules are proposed in accordance with the Office's review of this chapter under section 2001.039.

#### CROSS REFERENCE TO STATUTE

Chapter 184, Subchapter F. No other statutes, articles, or codes are affected by the proposed rules.

#### §184.50. Requirements for Event Support Contracts.

(a) An event support contract is required for any event that is participating in the Major Events Reimbursement Program or Events Trust Fund Program. The parties to an event support contract shall include, at a minimum, the site selection organization and the applicant.

(b) The event support contract must:

(1) establish the applicant's roles and obligations in the preparation for or presentation of the event;

(2) establish the roles and obligations the site selection organization will undertake to prepare for or present the event;

(3) set out the representations and assurances of the parties with respect to the selection of a site in this state for the location of an event; and

(4) detail the requirements and costs necessary-or in the case of Major Events Trust Fund Program Events, necessary or desirable-for the preparation for or presentation of an event.

(c) Any costs included in the event support contract that are anticipated to be paid, recovered, refunded, or offset from other parties must be clearly identified.

(d) The event support contract must clearly identify any costs that the contract parties intend to be reimbursed from the event trust fund for structural improvements or fixtures for an event site where the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events.

§184.51. Contract Guidelines.

(a) In considering whether to make a disbursement from the trust fund, the Office will not consider a contingency clause in an event support contract as relieving an applicant's obligation to pay a cost under the contract, as mandated by Sections 478.0202(b) or 480.0202(b), Texas Government Code.

(b) The event support contract must not create or shift obligations or liabilities from the endorsing municipality, endorsing county, local organizing committee, or another party to the Office.

(c) The Office shall not consider for reimbursement any cost that is identified in an event support contract in terms the Office, in its sole discretion, determines are overly broad or too general in nature, such terms include:

(1) blanket "catch-all" terms, such as "any necessary fixtures or improvements;"

(2) references in terms such as "etc." or "miscellaneous" or "as needed," or "other;"

(3) terms that reference the Office's decision-making authority, such as "any expense allowed by Office" or "any expense allowed by statute;" or

(4) any expense that merely references or generally recites the Texas Administrative Code to replace a clear and concise description of the expense.

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 June 21, 2024.

TRD-202402739

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 936-0100



## **TITLE 22. EXAMINING BOARDS**

### **PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

#### **CHAPTER 134. LICENSING, REGISTRATION, AND CERTIFICATION FOR SURVEYORS** **SUBCHAPTER D. EDUCATION**

##### **22 TAC §134.31**

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 134, regarding the licensing of registered professional land surveyors, and specifically §134.31, relating to Educational Requirements for Applicants. These proposed changes are referred to as "proposed rules."

#### **BACKGROUND AND SUMMARY**

The rules under 22 Texas Administrative Code, Chapter 134 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act and Texas Occupations Code Chapter 1071, the Professional Land Surveying Practices Act. The proposed rules address the educational requirements for some applicants for a surveyor-in-training certificate and the educational requirements for all applicants to become a registered professional land surveyor beginning on January 31, 2026.

#### **SECTION-BY-SECTION SUMMARY**

The proposed rules amend §134.31 to update the educational requirements for certain applicants for a surveyor-in-training certificate and all applicants to become a registered professional land surveyor. The Professional Land Surveying Practices Act requires applicants for a surveyor-in-training certificate that hold an associate degree or bachelor's degree in anything other than surveying to have, in a combination acceptable to the board, at least 32 hours of formal education in one of seven categories: civil engineering, land surveying, mathematics, photogrammetry, forestry, land law, and physical sciences. After review and consultation with the surveying community, the Board has determined updates in the acceptable combination of 32 hours of formal education is warranted. Land surveying is unquestionably a highly technical field that requires registrants that practice this field have a minimum competency to offer land surveying services to the people of Texas.

To ensure applicants education best prepares them to be competent registered professional land surveyors, the Board proposes to require applicants have at least nine hours of education in land surveying, at least three hours of education in land law, and at least six hours of education in mathematics. The remaining 14 hours of required education can be of any combination of the seven categories found in the Professional Land Surveying Practices Act. Additionally, the proposed rules establish definitions for the seven educational categories found in the Professional Land Surveying Practices Act to provide additional clarification to applicants.

To not adversely impact current students or people already in the process of becoming licensed, the proposed updates will apply to anyone who has not already applied for a surveyor-in-training certificate as of January 1, 2026.

#### **FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT**

Mr. Michael Sims, P.E., Director of Compliance and Enforcement for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

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

#### **LOCAL EMPLOYMENT IMPACT STATEMENT**

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

#### PUBLIC BENEFITS

Mr. Sims has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be increased competency in registered professional land surveyor applicants achieved by ensuring that the applicants have adequate formal education in land surveying specific topics.

#### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Sims has determined that for each year of the first five-year period the proposed rules are in effect, there may be a small, but currently unquantifiable, cost to some applicants for a surveyor-in-training certificate or registration as a professional land surveyor.

The proposed rules differ from the current rules by establishing minimum educational requirements in three categories: land surveying, land law, and mathematics. Any applicant with an associate degree or bachelor's degree in surveying is anticipated to meet the proposed requirements with no further action. However, an unknown number of applicants with an associate or bachelor's degree in anything other than land surveying may need to take additional courses to meet the proposed requirements. The actual cost is unknown as it will vary depending on how many courses are needed and the cost per course at the institute of higher education the applicant chooses to take the courses to meet the proposed updated requirements. To allow time for sufficient planning by applicants, the proposed rules will only apply to people beginning the registration process after January 1, 2026.

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

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rules 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 are not subject to the requirements of Government Code §2001.0045 because the Board is a self-directed, semi-independent agency. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

#### GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules are 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 do not create a new regulation.

6. The proposed rule does not expand an existing regulation but does adjust the educational requirements within the existing framework of the Professional Land Surveying Practices Act.

7. The proposed rules do not increase the number of individuals subject to the rule's applicability.

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

#### TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed 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 Government Code §2007.043.

#### ENVIRONMENTAL RULE ANALYSIS

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

#### PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers and Land Surveyors, via email to [rules@pels.texas.gov](mailto:rules@pels.texas.gov); or via mail to 1917 S. Interstate 35, Austin, Texas 78741.

#### STATUTORY AUTHORITY

The proposed rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Texas Engineering Practice Act and the Professional Land Surveying Practices 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.

#### SECTIONS AFFECTED

The proposed rules implement the following sections of the law: Texas Occupations Code §§1071.253 and 1071.254.

*§134.31. Educational Requirements for Applicants.*

(a) Applicants for certification as a surveyor-in-training shall have graduated from at least one of the educational programs or program combinations listed in §1071.253 of the Surveying Act.

(1) For the purpose of meeting the requirements found in §1071.253(a)(2)(A) or §1071.253(a)(4)(A), the courses listed in sub-

paragraphs (A) - (C) of this paragraph must be taken in order to be eligible for a surveyor-in-training certificate:

(A) a minimum of 9 semester hours (13.5 quarter hours) of land surveying. For the purposes of this chapter, land surveying courses acceptable to the board may include, but are not limited to, the topics of basic surveying, advanced surveying, route surveying, engineering surveying, geospatial engineering, and geodesy.

(B) a minimum of 3 semester hours (4.5 quarter hours) of land law. For the purposes of this chapter, land law courses acceptable to the board may include, but are not limited to, the topics of legal principles of surveying, boundary surveying evidence and boundary analysis, and Texas specific laws impacting land surveying. Courses focusing primarily on real estate laws are not acceptable to the board.

(C) a minimum of six semester hours (nine quarter hours) of mathematics. For the purposes of this chapter, mathematics courses acceptable to the board may include, but are not limited to, land surveying math, college algebra, trigonometry, analytical geometry, differential and integral calculus, linear algebra, numerical analysis, probability, statistics, and advanced calculus.

(2) For the purpose of meeting the requirements found in §1071.253(a)(2)(A) or §1071.253(a)(4)(A), the board provides the following definitions:

(A) Civil engineering courses acceptable to the board include, but are not limited to, courses that address the design, construction, and maintenance of the physical and naturally built environment.

(B) Photogrammetry courses acceptable to the board include, but are not limited to, courses that address the science and technology of obtaining reliable information about physical objects and the environment through the process of recording, measuring and interpreting photographic images and patterns of electromagnetic radiant imagery and other phenomena and includes the topic of remote sensing.

(C) Forestry courses acceptable to the board include, but are not limited to, courses that address the science of developing, caring for, or cultivating forests.

(D) Physical science courses acceptable to the board include, but are not limited to, courses that study the non-living world, including physics, geology, physical geography, astronomy, chemistry, and geographic information systems (GIS).

(3) The education provisions found in paragraphs (1) and (2) of this subsection shall apply to any applicant for a surveyor in training registration after January 1, 2026.

(b) Applicants for registration as a registered professional land surveyor shall have graduated from at least one of the educational programs or degree program combinations listed in §1071.254 of the Surveying Act.

(1) For the purpose of meeting the requirements found in §1071.254(a)(3), the courses listed in subparagraphs (A) - (C) of this paragraph must be taken, as part of the qualifying degree or in addition to the bachelor or associate degree program, in order to be eligible for a surveyor-in-training certificate:

(A) a minimum of 9 semester hours (13.5 quarter hours) of land surveying. For the purposes of this chapter, land surveying courses acceptable to the board may include, but are not limited to, the topics of basic surveying, advanced surveying, route surveying, engineering surveying, geospatial engineering, and geodesy.

(B) a minimum of 3 semester hours (4.5 quarter hours) of land law. For the purposes of this chapter, land law courses acceptable to the board may include, but are not limited to, the topics of legal principles of surveying, boundary surveying evidence and boundary analysis, and Texas specific laws impacting land surveying. Courses focusing primarily on real estate laws are not acceptable to the board.

(C) a minimum of six semester hours (nine quarter hours) of mathematics. For the purposes of this chapter, mathematics courses acceptable to the board may include, but are not limited to, land surveying math, college algebra, trigonometry, analytical geometry, differential and integral calculus, linear algebra, numerical analysis, probability, statistics, and advanced calculus.

(2) For the purpose of meeting the requirements found in §1071.254(a)(3), the board provides the following definitions:

(A) Civil engineering courses acceptable to the board include, but are not limited to, courses that address the design, construction, and maintenance of the physical and naturally built environment.

(B) Photogrammetry courses acceptable to the board include, but are not limited to, courses that address the science and technology of obtaining reliable information about physical objects and the environment through the process of recording, measuring and interpreting photographic images and patterns of electromagnetic radiant imagery and other phenomena and includes the topic of remote sensing.

(C) Forestry courses acceptable to the board include, but are not limited to, courses that address the science of developing, caring for, or cultivating forests.

(D) Physical science courses acceptable to the board include, but are not limited to, courses that study the non-living world, including physics, geology, physical geography, astronomy, chemistry, and geographic information systems (GIS).

(3) The education provisions found in paragraphs (1) and (2) of this subsection shall apply to any applicant for a registered professional land surveyor who applied for a surveyor in training registration after January 1, 2026.

(4) If the surveyor in training registration was waived for an applicant from an out-of-state registration holder in accordance with the provisions found in §134.25 of this chapter (relating to Application from Out-of-State Registration Holders), the education provisions found in paragraphs (1) and (2) of this subsection shall apply to any applicant for a registered professional land surveyor received after January 1, 2026.

(c) - (d) (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 June 24, 2024.

TRD-202402769

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 440-7723



## TITLE 28. INSURANCE

# PART 1. TEXAS DEPARTMENT OF INSURANCE

## CHAPTER 1. GENERAL ADMINISTRATION SUBCHAPTER A. RULES OF PRACTICE AND PROCEDURE

### DIVISION 1. GENERAL PROCEDURAL PROVISIONS

The Texas Department of Insurance (TDI) proposes the repeal of 28 TAC §§1.47 - 1.49, 1.51, 1.52, 1.88, and 1.89; amendments to §1.32; and new §1.47. These sections concern the procedures for responding to notices of hearing, dispositions of contested cases, and appeals of dispositions. The proposed changes modernize and clarify parts of TDI's contested case process.

**EXPLANATION.** The proposed repeal of §§1.47 - 1.49, 1.51, and 1.52 removes regulations that no longer provide relevant guidance because of repealed or recodified statutes. The proposed repeal of §1.88 and §1.89 removes regulations containing outdated procedures that have been superseded by regulations in 1 TAC Chapter 155. The proposed amendments to §1.32 and proposed new §1.47 update the procedure for (1) informing applicants and license or authorization holders about alleged violations, and (2) informally disposing of contested cases when the applicant or license or authorization holder does not participate in the process. The proposed amendments also make nonsubstantive changes for plain language and to reflect current agency drafting style.

Details of the proposed amended, new, and repealed sections follow.

**Section 1.32.** The proposed amendments to §1.32 remove unnecessary references, update the process for applicants to request a hearing following a proposed denial of a new or renewal license or authorization, and make plain language changes.

The first sentence in §1.32 is solely a reference to a repealed statute, stating that the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license is governed by §18 of Texas Civil Statutes, Article 6252-13a. Article 6252-13a was repealed effective September 1, 1993; those regulations on licenses are now governed by the Administrative Procedures Act (APA), under Government Code §2001.054. The sentence is stricken, as it provides no relevant information or direction, and the APA sufficiently addresses the matter; it is not necessary for §1.32 to interpret or apply it.

In the second sentence, the proposed amendments change "he or she shall have" to "the person will have" and remove the end of the sentence, which states that a hearing will be granted if requested and again refers to Article 6252-13a. The latter amendment does not affect the applicant's right to a hearing; instead, it limits the rule's scope to better accommodate the possibility of a contested case being informally disposed of under any method listed in Government Code §2001.056 before it is docketed at the State Office of Administrative Hearings (SOAH). The amendments aim to limit confusion or conflict between the procedural steps §1.32 regulates and those steps regulated by proposed new §1.47 or other laws. If an applicant requests a hearing, that application will be referred to TDI's Enforcement Section and continue through the contested case process.

**Repeal of existing §1.47.** Existing §1.47, which consists of a single sentence, is proposed for repeal because it is solely a reference to a repealed statute. Section 1.47 states that informal disposition of a contested case is governed by §13(e) of Texas Civil Statutes, Article 6252-13a. Article 6252-13a was repealed effective September 1, 1993; informal disposition of contested cases is now governed by the APA, under Government Code §2001.056. Section 1.47 provides no relevant information or direction. The APA sufficiently addresses the matter; it is not necessary to update §1.47 to interpret or apply it.

**Proposed new §1.47.** Proposed new §1.47 provides a more efficient process for informal dispositions of contested cases when the person identified in the allegations does not participate. For contested cases involving applications for new or renewal licenses or authorizations, the process in proposed new §1.47 follows the steps in the proposed amendments to §1.32.

The new process in proposed §1.47 is similar to the process in existing §1.88 and §1.89, which are proposed to be repealed. The primary difference is that the informal disposition will occur *before* the contested case is docketed with SOAH instead of after docketing, as required under the existing rules. The proposed title for new §1.47 identifies the notice that will be sent under this section and reflects the change to the timing of the informal disposition. New §1.47 allows for a more modern and efficient process and retains the same level of notice regarding the allegations against the person.

Proposed new §1.47(a) establishes that TDI may send a person a notice of allegations that sets out the factual matters asserted against them, the legal authority under which TDI can act on those matters, any relief sought, and the repercussions of failing to respond to the notice of allegations. The information in the notice of allegations is similar to what is currently included in a petition and a notice of hearing, under §1.88 and Government Code §2001.052, except for the time, place, and nature of the hearing. This information will not be available because the notice of allegations will be sent before the hearing is docketed at SOAH. The notice of allegations will provide a person with an invitation to show compliance with the law and information to make an informed decision about whether they would like to proceed to a public hearing at SOAH.

Under proposed new §1.47(b), a person has 20 days to respond to the notice of allegations—the same response time that is in existing §1.88. The proposed repeal of §1.88 will result in TDI's rules no longer requiring a response to a notice of hearing. There is also no requirement for a response to a notice of hearing in SOAH's rules; see 1 TAC Chapter 155. This proposal shifts the existing requirement that the person respond to TDI's allegations and show a willingness to participate in a hearing from after docketing to before docketing at SOAH. Proposed new §1.47 does not include any requirements or limitations regarding the person's response to the notice of allegations, other than it needs to be in writing.

Under proposed new §1.47(c), if a person does not timely respond to a notice of allegations, then the contested case may be informally disposed of under a default order, as authorized by Government Code §2001.056 and Insurance Code §82.055 or §4005.102. This is the same type of disposition allowed under existing §1.89 for failing to file a response to a notice of hearing. Subsection (c) identifies what will be included in or addressed by a default order issued under the section. A default order under this subsection will describe how the person who is the subject of the order waived their opportunity for a hearing by failing to

respond to a properly sent notice of allegations. The allegations from §1.47(a) will be used as the findings of fact and conclusions of law, and the relief sought in §1.47(a)(4) will be the action ordered by the default order.

New §1.47(d) sets out the process to appeal a default order issued under §1.47. This process is substantially similar to the process in existing §1.89, with some language updates to reflect current agency drafting style and plain language preferences. A party to a contested case may file a motion to set aside the default order and reopen the record. Subsection (d) plainly describes how the motion must be submitted to TDI. Subsections (d)(2) and (d)(3) provide the same standard of review for granting a motion under the subsection and the same explanation that a motion under the subsection is not a motion for rehearing, as stated in existing §1.89. If the party establishes that the failure to respond was not intentional and was a mistake, then the commissioner will grant the motion to set aside the default order. Once a default order under this section is set aside, the party will again have the ability to show compliance or present their case at SOAH.

New §1.47(e) clarifies that the updated process of sending a notice of allegations will constitute the beginning of an action under Insurance Code §81.001.

*Repeal of §1.48.* Section 1.48, which consists of a single sentence, is proposed for repeal because it is solely a reference to a repealed statute. Section 1.48 states that the form and time limits for a final decision of the commissioner, the fire marshal, or the Board of Insurance in a contested case are governed by §15 and §16 of Texas Civil Statutes, Article 6252-13a. Article 6252-13a was repealed effective September 1, 1993; form and time limits for final decisions are now governed by the APA, under Government Code §2001.141 and §2001.143. Section 1.48 provides no relevant information or direction and could confuse a party attempting to appeal a final decision in a contested case. The APA sufficiently addresses the matter; it is not necessary to update §1.48 to interpret or apply it.

*Repeal of §1.49.* Section 1.49, which consists of a single sentence, is proposed for repeal because it is solely a reference to a repealed statute. Section 1.49 states that the requirements and time limits for a motion for rehearing in a contested case before the commissioner, fire marshal, or the Board of Insurance are governed by §16 of Article 6252-13a. Article 6252-13a was repealed and these regulations are now addressed by the APA, under Government Code §2001.145 and §2001.146. Section 1.49 provides no relevant information or direction and could confuse a party attempting to request a motion for rehearing. The APA sufficiently addresses the matter, so it is not necessary to update §1.49 to interpret or apply it.

*Repeal of §1.51.* Section 1.51 is proposed for repeal because the section sets out procedures that are inconsistent with current statutes in the Insurance Code and the APA. Section 1.51, which was last amended in 1991, addresses appeals of final agency decisions in contested cases. In 1993, the APA began addressing the judicial review of final agency decisions, under Government Code Chapter 2001, Subchapter G. Subchapter G sufficiently addresses the matter, so it is not necessary to update §1.51 to interpret or apply it.

Subsection (b) provides procedures for appeals of acts, rulings, or decisions of the Texas Workers' Compensation Assigned Risk Pool, the Texas Catastrophe Property Insurance Association, or the Texas Medical Liability Underwriting Association. These pro-

cedures have been superseded by law. Section 1.51 provides outdated information and directions, and it could confuse a party attempting to appeal a final agency decision.

*Repeal of §1.52.* The proposed repeal of §1.52 is because the section, which consists of a single sentence, is solely a reference to a repealed statute. Section 1.52 states that the time periods for §1.48 and §1.49, which are both proposed for repeal, may be modified as provided by §16 of Article 6252-13a. Article 6252-13a was repealed and the regulations are now addressed in the APA, as stated above. Section 1.52 provides no relevant information or direction and could confuse a party attempting to modify time periods. The APA sufficiently addresses the matter, so it is not necessary to update §1.52 to interpret or apply it.

*Repeal of §1.88.* Section 1.88 is proposed for repeal because it will be unnecessary if the other proposed repeals and amendments are adopted. The provisions in §1.88 relate to §1.89, which is proposed for repeal. Section 1.88 includes outdated references and provisions that are sufficiently addressed under the APA and 1 TAC Chapter 155. The requirement in proposed new §1.47 to respond to a notice of allegations supplants the requirement in §1.88 to respond to a notice of hearing.

*Repeal of §1.89.* Section 1.89 is proposed for repeal because it will be unnecessary if the other proposed repeals and amendments are adopted. Some provisions in §1.89 concerning contested case hearings have been superseded by SOAH procedures included in 1 TAC §155.501 and §155.509, while other provisions provide an informal disposition process that will be supplanted by proposed new §1.47.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Deputy Commissioner Leah Gillum, Fraud and Enforcement Division, has determined that during each year of the first five years this proposal is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections as proposed, other than that imposed by statute. Ms. Gillum made this determination because the sections as proposed do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments, new section, and repeals.

Ms. Gillum does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years this proposal is in effect, Ms. Gillum expects that administering the sections as proposed will have the public benefit of ensuring sufficient due process protections through a more efficient and clearly written process. The amendments and repeals will remove outdated sections that might confuse or provide incorrect information to a person attempting to follow the contested case process.

Ms. Gillum expects that this proposal will not increase the cost of compliance for stakeholders because they do not require substantive changes from the current process.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that this proposal will not have an adverse economic effect on small or micro businesses, or on rural communities. While the new and repealed sections will apply to small or micro businesses, the updated process is substantially similar to the existing process and does not require additional or significantly different actions by small or micro businesses. As a result, and in accordance with Gov-

ernment Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does not impose a possible cost on regulated persons. Any cost associated with responding to TDI under new §1.47 will be the same as is present under current §1.89. Neither the proposed amendments to §1.32 nor the proposed repeals of §§1.47 - 1.49, 1.51, 1.52, 1.88, or 1.89 result in additional costs on regulated persons.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI has determined that for each year of the first five years that the sections as proposed are in effect, the rule:

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

This proposal repeals existing regulations and replaces them with new regulations addressing the need to file a written response to TDI's allegations in a contested case.

**TAKINGS IMPACT ASSESSMENT.** TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on August 5, 2024. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on August 5, 2024. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

## 28 TAC §1.32, §1.47

**STATUTORY AUTHORITY.** TDI proposes amendments to §1.32 and new §1.47 under Government Code §2001.004 and §2001.056, and Insurance Code §§82.055, 4005.102, and 36.001.

Government Code §2001.004 provides for a state agency's adoption of rules stating the nature and requirements for formal and informal procedures.

Government Code §2001.056 provides that informal disposition of a contested case may be made by default.

Insurance Code §82.055 provides that the commissioner may informally dispose of a matter under Insurance Code Chapter 82, Subchapter B, by consent order, agreed settlement, stipulation, or default.

Insurance Code §4005.102 lists remedies for violations of the Insurance Code, other insurance laws of Texas, and commissioner rules. This list includes a denial or disciplinary action against an applicant or a regulated person. The section also states that the remedies under the section are in addition to any remedy available under Insurance Code Chapter 82, which includes informal disposition by default.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** The proposed amendments to §1.32 and new §1.47 implement Government Code §2001.004 and §2001.056, and Insurance Code §82.055 and §4005.102.

### §1.32. *Licenses.*

[Except as otherwise provided by law, the procedure for the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license is governed by the Act, §18.] Except as otherwise provided by law, if an applicant's original application or request for renewal of a license or certificate of authority is denied, the person will [he or she shall] have 30 days from the date of denial to make a written request for a hearing. [and, if so requested, the hearing will be granted and the provisions of the Act and these sections with regard to a contested case shall apply.]

### §1.47. *Informal Disposition After Notice of Allegations.*

(a) Before docketing a contested case with the State Office of Administrative Hearings, the Texas Department of Insurance (TDI) may send a person a notice of allegations via certified mail to the person's last known mailing address that includes:

- (1) a short, plain statement of the factual matters asserted;
  - (2) the legal authority and jurisdiction under which TDI or the commissioner is authorized to act;
  - (3) the statutes and rules involved;
  - (4) any relief sought, including denial, revocation, or other disciplinary action;
  - (5) an invitation to show compliance with the law;
  - (6) statements that notify the person that:
    - (A) the person has a right to a hearing;
    - (B) the person must respond to the notice in writing not later than the 20th day after the date it was mailed; and
    - (C) if the person does not respond, then the commissioner may issue a default order that admits all allegations asserted as true and orders the relief recommended in the notice.
- (b) Not later than the 20th day after the date a notice of allegations is mailed, the person must send a written response to TDI as directed in the notice.
- (c) If the person does not send a written response by the deadline described in subsection (b) of this section, the commissioner may



informally dispose of the contested case by issuing a default order. A default order under this section will:

- (1) find that a notice of allegations was properly sent to the person;
- (2) find that the person received and waived an opportunity for hearing;
- (3) deem all allegations in the notice of allegations as true;
- (4) find that the person failed to show compliance with the law; and
- (5) order the relief listed in the notice of allegations.

(d) A party in the contested case may file a motion with TDI to set aside a default order entered under this section and reopen the record.

(1) A party must file the motion with TDI's Chief Clerk's Office and send a copy of it to the TDI attorney named in the notice of allegations before the order becomes final under Government Code Chapter 2001, Subchapter F, concerning Contested Cases: Final Decisions and Orders; Motions for Rehearing.

(2) The commissioner will grant a motion under this subsection if the requesting party establishes that the failure to file a written response to the notice of allegations was neither intentional nor the result of conscious indifference, and that such failure was due to a mistake or accident.

(3) A motion under this subsection is not a motion for rehearing and is not a substitute for a motion for rehearing. The filing of a motion under this subsection has no effect on either the statutory deadline for the requesting party to file a motion for rehearing or for the commissioner to rule on it, as provided under Government Code Chapter 2001, Subchapter F.

(e) Sending a notice of allegations under this section begins an action under Insurance Code §81.001, concerning Limitations Period for Certain Disciplinary Actions.

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 June 20, 2024.  
TRD-202402707  
Jessica Barta  
General Counsel  
Texas Department of Insurance  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 676-6555



**28 TAC §§1.47 - 1.49, 1.51, 1.52, 1.88, 1.89**

STATUTORY AUTHORITY. TDI proposes the repeal of §§1.47 - 1.49, 1.51, 1.52, 1.88, and 1.89 under Government Code §2001.004 and §2001.056, and Insurance Code §§82.055, 4005.102, and 36.001.

Government Code §2001.004 provides for a state agency's adoption of rules stating the nature and requirements for formal and informal procedures.

Government Code §2001.056 provides that informal disposition of a contested case may be made by default.

Insurance Code §82.055 provides that the commissioner may informally dispose of a matter under Insurance Code Chapter 82, Subchapter B, by consent order, agreed settlement, stipulation, or default.

Insurance Code §4005.102 lists remedies for violations of the Insurance Code, other insurance laws of Texas, and commissioner rules. This list includes a denial or disciplinary action against an applicant or a regulated person. The section also states that the remedies under the section are in addition to any remedy available under Insurance Code Chapter 82, which includes informal disposition by default.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The proposed repeal of §§1.47 - 1.49, 1.51, 1.52, 1.88, and 1.89 implements Government Code §2001.004 and §2001.056 and Insurance Code §82.055 and §4005.102.

§1.47. *Informal Disposition of a Contested Case.*

§1.48. *Final Decisions.*

§1.49. *Motion for Rehearing.*

§1.51. *Appeals to the Board of Acts, Rulings, or Decisions of Certain Persons, Associations, Organizations, or Other Entities.*

§1.52. *Modification to Time Periods.*

§1.88. *Written Response to Notice of Hearing.*

§1.89. *Default: What Constitutes Default; Remedies.*

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 June 20, 2024.  
TRD-202402706  
Jessica Barta  
General Counsel  
Texas Department of Insurance  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 676-6555



**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**PART 9. TEXAS COMMISSION ON JAIL STANDARDS**

**CHAPTER 255. RULEMAKING PROCEDURES**  
**37 TAC §255.6**

The Texas Commission on Jail Standards proposes an amendment, with new subsection (c) added to Texas Administrative Code, Title 37, §255.6, relating specifically to the creation and operation of an advisory committee on intellectual or developmental disability as required by Government Code, Title 4, §511.022.

Brandon Wood, Executive Director, has determined that, during the first five years the amendment will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the amended sections as proposed.

TCJS has determined that during the first five years that the section will be in effect:

- (1) the proposed amendment will not create or eliminate a government program.
- (2) implementation of the proposed amendment will not affect the number of employee positions;
- (3) implementation of the proposed amendment will not require an increase or decrease in future legislative appropriations;
- (4) The proposed amendment will not affect fees paid to the agency;
- (5) the proposed amendment will not create a new rule;
- (6) the proposed amendment will not repeal an existing rule;
- (7) the proposed amendment will not change the number of individuals subject to the rule; and
- (8) TCJS has insufficient information to determine the proposed rules' effect on the state's economy.

Mr. Wood has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities to comply with the amended rules, as they will not be required to alter their business practices and the rules do not impose any additional costs on those required to comply with the rules.

There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Texas Government Code, §2001.0045 does not apply to this proposal because the rules do not impose a cost on regulated persons; are amended to reduce the burden or responsibilities imposed on regulated persons by the rule.

Mr. Wood has determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption of the rules. The Commission anticipates that the amendment will enable the counties that are capable of operating a direct supervision housing facility without the burden of applying for a variance from the minimum jail standards.

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

Comments on the proposed rule may be submitted in writing to Richard Morgan, P.O. Box 12985, Austin, Texas 78711, Fax (512) 463-3185, or e-mail at richard.morgan@tcjs.state.tx.us.

The amendment is proposed under the authority of Government Code, Chapter 511, which authorizes the Texas Commission on Jail Standards to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails, as well as advisory committees.

This proposed change does not affect other rules or statutes.

§255.6. *Advisory Committees.*

(a) General. The Texas Commission on Jail Standards (Commission) may establish advisory committees pursuant to Gov't. Code §511.0081 or if mandated by legislative action.

(1) Purpose, Role, and Responsibility. The purpose, role, and responsibility of a Commission advisory committee is to make recommendations to the Commission on programs, rules, and policies administered by the Commission.

(2) Goals. Unless mandated by legislative action, the goal of each advisory committee will be determined by the Commission at the time the advisory committee is created.

(3) Duration. Unless mandated by legislative action, the duration of each advisory committee will be determined by the Commission. The Commission will annually review and determine the continuing need for an advisory committee established by the Commission.

(4) Committee Members.

(A) Committees will consist of a minimum of five members and a maximum of nine members, unless mandated otherwise by legislative action.

(B) Unless otherwise mandated by legislative action, committee members will have various backgrounds of experience, expertise, and interest in the matters the committee will address. Committee members may include Commission commissioners, sheriffs, jail administrators, relevant governmental agency representatives, relevant professionals, and other interested members of the public. The Chair of the advisory committee, in consultation with the Executive Director, will appoint committee members that meet the criteria set forth.

(C) The Chair of the Texas Commission on Jail Standards appoints the Chair of advisory committees unless mandated otherwise by legislative action.

(D) Members of advisory committees will elect an advisory committee Vice-Chair from among its members to serve in the temporary absence of the advisory committee Chair.

(E) Terms. The Commission Executive Director will determine the members' terms of service. The terms of service will be staggered.

(F) Unless prohibited by legislative action, non-voting subject matter experts may be named to the committee at the discretion of the Chair with the consent of the committee.

(5) Rules. Each advisory committee established shall adopt policies and procedures that address the purpose of the advisory committee, membership qualifications, training requirements, terms of service, operating procedures, conflict of interest, and adherence to the requirements set forth in Texas Government Code 551.

(6) Committee Operations and Meetings.

(A) Meetings. The committee must meet at least quarterly; however, the Chair may decide that it is necessary to meet more frequently. The committee is subject to the Texas Open Meetings Act, Texas Government Code Chapter 551.

(B) Quorum. A majority of members constitutes a quorum.

(C) Compensation and Travel Reimbursement. Members will not be reimbursed for expenses related to their participation in the advisory committee.

(b) Administrative Rules Advisory Committee. The Commission establishes an Administrative Rules Advisory Committee to regularly review all administrative rules as part of the mandated rule review

process, administrative rules required by new legislation, administrative rules as recommended by the Commission, and petitions for administrative rule changes. The committee makes recommendations to the Commission related to administrative rules. The Committee consists of a minimum of nine members as follows:

- (1) one representative of the Commission to act as Committee Chair;
- (2) one sheriff of a county with a population of [from] 80,000 or more;
- (3) one sheriff of a county with a population of [from] less than 80,000;
- (4) one county judge or county commissioner from a county with a population of 80,000 or more;
- (5) one county judge or county commissioner from a county with a population of less than 80,000;
- (6) one member of the public who is a representative of a statewide organization that advocates for individuals or issues related to county jails; ~~[(7) one member of the public];~~
- (7) one non-voting ex-officio jail administrator from a jail consisting of 50 beds or fewer [less];
- (8) one non-voting ex-officio jail administrator from a jail consisting of 51-999 beds; and
- (9) one non-voting ex-officio jail administrator from a jail consisting of 1000 or more beds.

(c) Intellectual or Developmental Disability Advisory Committee. As required by Government Code 511.022, the commission establishes an Intellectual or Developmental Disability Advisory Committee to advise the commission and make recommendations on matters related to the confinement in county jail of persons with intellectual or developmental disabilities. The Committee consists of a minimum of thirteen members as follows:

- (1) one representative of the commission;
- (2) one representative of the Department of State Health Services;
- (3) one representative of the Health and Human Services Commission with expertise in intellectual and developmental disabilities;
- (4) one representative of the Texas Commission on Law Enforcement;
- (5) one representative of the Texas Correctional Office on Offenders with Medical or Mental Impairments;
- (6) one sheriff of a county with a population of 80,000 or more;
- (7) one sheriff of a county with a population of less than 80,000;
- (8) two representatives of statewide organizations that advocate for individuals with intellectual and developmental disabilities;
- (9) one representative who is a mental health professional with a focus on trauma and intellectual and developmental disabilities;
- (10) one representative from a state supported living center;
- (11) one member who has an intellectual or developmental disability or whose family member has an intellectual or developmental disability; and

(12) one member who represents the public.

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 June 21, 2024.

TRD-202402740

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 850-8668



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 20. TEXAS WORKFORCE COMMISSION

#### CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program:

Subchapter A. Definitions, §804.1

Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.12 and §804.13

Subchapter C. Grant Program, §§804.21, 804.22, and 804.24

Subchapter D. Grants to Educational Institutions for Career and Technical Education Programs, §804.41

#### PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 804 rule change is to ensure that this chapter aligns with terminology used in Texas Education Code, Chapter 134 and reflects updated program practices.

Texas Government Code §2001.039 requires a state agency to review and consider for readoption each of its rules every four years. In accordance with the statute, TWC has reviewed Chapter 804, Jobs and Education for Texans (JET) Grant Program, and proposes readoption of the rules as amended.

#### PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

##### SUBCHAPTER A. DEFINITIONS

TWC proposes the following amendments to Subchapter A:

###### §804.1. Definitions

Section 804.1(5) is amended to change "Charter school" to "Open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134. The paragraph is moved to retain alphabetical order and affected paragraphs are renumbered accordingly.

## SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

TWC proposes the following amendments to Subchapter B:

### §804.12. Meetings Required

Section 804.12(a) is amended to change "charter school" to "open-enrollment charter school" to align with the terminology in Texas Education Code, Chapter 134.

### §804.13. General Advisory Board Responsibilities

Section 804.13(1) is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

## SUBCHAPTER C. GRANT PROGRAM

TWC proposes the following amendments to Subchapter C:

### §804.21. General Statement of Purpose

Section 804.21 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

### §804.22. Notice of Grant Availability and Application

Section 804.22 is amended to change the section name from "Notice of Grant Availability and Application" to "Grant Availability and Application."

Section 804.22 is amended to replace "Notice of Availability" with "request for applications" and remove the sentence, "The notice shall be published in the Texas Register and on the Agency's website." These changes more closely align the rule with statute and current program practices.

### §804.24. Reporting Requirements

Section 804.24 is amended to change "charter schools" to "open-enrollment charter schools" to align with the terminology in Texas Education Code, Chapter 134.

## SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

TWC proposes the following amendments to Subchapter D:

### §804.41. Grants for Career and Technical Education Programs

Section 804.41 has been amended to change "charter schools" to "open-enrollment charter schools" to better align with statute.

## PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code §2001.0045, does not apply to this rulemaking.

### Takings Impact Assessment

Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to ensure that the terminology used in 40 Texas Administrative Code (TAC), Chapter 804, aligns with the terminology used in Texas Education Code, Chapter 134, and reflects updated program practices.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

### Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;
- will not change the number of individuals subject to the rules; and
- will not positively or adversely affect the state's economy.

### Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the

proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rules.

Mary York, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to add clarity to the program eligibility and processes.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

#### PART IV. COORDINATION ACTIVITIES

This rulemaking makes clarifying changes to better align the terminology used in 40 TAC Chapter 804 with the terminology used in Texas Education Code, Chapter 134, and reflects updated program practices. The public will have an opportunity to comment on these proposed rules when they are published in the *Texas Register* as set forth below.

#### PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) and must be received no later than August 5, 2024.

### SUBCHAPTER A. DEFINITIONS

#### 40 TAC §804.1

##### PART VI.

##### STATUTORY AUTHORITY

The rule is proposed under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule relates to Title 3, Texas Education Code, particularly Chapter 134.

##### §804.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Act--Texas Education Code, Chapter 134, Jobs and Education for Texans Grant Program.

(2) Advisory board--The advisory board of education and workforce stakeholders created pursuant to the Act.

(3) Career and technical education--Organized educational activities that offer a sequence of courses that:

(A) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in high-demand occupations or emerging industries;

(B) includes competency-based applied learning that contributes to the academic knowledge, problem-solving skills, work

attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual; or

(C) provides a license, a certificate, or a postsecondary degree.

(4) Certificate or degree completion--Any grouping of workforce or technical courses in sequential order that, when satisfactorily completed by a student, will entitle the student to a Texas Higher Education Coordinating Board--approved certificate or associate degree from a public technical institute, public junior college, or public state college.

~~[(5) Charter school--A Texas public school operated by a charter holder under an open-enrollment charter granted pursuant to Texas Education Code, §12.101.]~~

~~(5) [(6)] Developmental education--Structured courses, tutorials, laboratories, or other proven instructional efforts that successfully prepare students for college level (and therefore work-ready) courses as measured by passing the state-required college entrance exam (or meeting the Texas Success Initiative requirements).~~

~~(6) [(7)] Emerging industry--A growing, evolving, or developing industry based on new technological products or concepts.~~

~~(7) [(8)] High-demand occupation--A job, profession, skill, or trade for which employers within the state of Texas generally, or within particular regions or cities of the state, have or will have a substantial need. In determining whether there is or will be a substantial need for a particular job, profession, trade, or skill, the Agency may consider occupations identified by the 28 Local Workforce Development Boards (Board-Area Target Occupations Lists) and/or the Agency's labor market projections.~~

~~(8) [(9)] JET--The Jobs and Education for Texans Grant Program.~~

~~(9) Open-enrollment charter school--A Texas public school operated by a charter holder under an open-enrollment charter granted pursuant to Texas Education Code §12.101.~~

~~[(10) Notice of Availability or NOA--The notice of availability that is published by the Agency pursuant to §804.22 of this title (relating to Notice of Grant Availability and Application).]~~

~~(10) [(11)] Public junior college--Any junior college certified by the Texas Higher Education Coordinating Board in accordance with Texas Education Code[;] §61.003.~~

~~(11) [(12)] Public state college--Lamar State College--Orange, Lamar State College--Port Arthur, or Lamar Institute of Technology, in accordance with Texas Education Code[;] §61.003.~~

~~(12) [(13)] Public technical institute--The Lamar Institute of Technology or the Texas State Technical College System, in accordance with Texas Education Code[;] §61.003.~~

~~(13) [(14)] School district--An independent school district or the Windham School District.~~

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 June 18, 2024.  
TRD-202402667

Les Trobman  
General Counsel  
Texas Workforce Commission  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 850-8356



## SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

### 40 TAC §804.12, §804.13

The rules are proposed under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 3, Texas Education Code, particularly Chapter 134.

#### §804.12. Meetings Required.

(a) The advisory board is required to meet at least once each quarter, or as needed, to review received applications and recommend awarding grants under this chapter to public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts.

(b) Meetings shall be subject to the requirements of the Open Meetings Act.

#### §804.13. General Advisory Board Responsibilities.

The advisory board shall provide advice and recommend [~~recommendations to the Agency on~~]:

(1) the manner in which public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts apply for JET grants; and

(2) the JET grants to be awarded by the Agency.

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 June 18, 2024.

TRD-202402668  
Les Trobman  
General Counsel  
Texas Workforce Commission  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 850-8356



## SUBCHAPTER C. GRANT PROGRAM

### 40 TAC §§804.21, 804.22, 804.24

The rules are proposed under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 3, Texas Education Code, particularly Chapter 134.

#### §804.21. General Statement of Purpose.

In accordance with the Act, the Agency established JET, which it administers [~~shall be administered~~] pursuant to the Act and this chapter to award grants from the JET fund for the development of career and technical education programs at public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts that meet the requirements of Texas Education Code[~~s~~] §134.006 and §134.007.

#### §804.22. [~~Notice of~~] Grant Availability and Application.

(a) From time to time, the Agency may publish a request for applications for [~~Notice of Availability (NOA) of~~] grant funds under this chapter and post a link to the request for applications on the Agency's website. [~~The notice shall be published in the Texas Register and on the Agency's website.~~] In addition to the respective purpose for the [~~each~~] grant program [~~under this chapter~~], the request for applications [~~notice~~] may include:

- (1) the total grant funds available for award;
- (2) the minimum and maximum amount of grant funds available for each grant recipient;
- (3) eligibility criteria;
- (4) application requirements;
- (5) grant award and evaluation criteria;
- (6) any grant requirements in addition to those set forth in this chapter;
- (7) the date by which the application must be submitted to the Agency;
- (8) the anticipated date of grant awards; and
- (9) any other information or instructions necessary and appropriate for awarding the grant as determined by the Agency.

(b) To be eligible for a grant award, an applicant meeting the eligibility criteria identified in the request for applications [~~NOA~~] shall submit an application in the form and manner [~~as~~] prescribed by the Agency [~~in NOA~~].

(c) The Agency may request additional information at any time prior to the grant award in order to effectively evaluate any application.

#### §804.24. Reporting Requirements.

A public junior college, public technical institute, public state college, open-enrollment charter school, or school district receiving a grant under this chapter must comply with all reporting requirements of the contract in the frequency and format determined by the Agency in order to maintain eligibility for grant payments. Failure to comply with the reporting requirements may result in termination of the grant award and the entity being ineligible for future grants under this chapter.

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 June 18, 2024.

TRD-202402669  
Les Trobman  
General Counsel  
Texas Workforce Commission  
Earliest possible date of adoption: August 4, 2024  
For further information, please call: (512) 850-8356



## SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS

### 40 TAC §804.41

The rule is proposed under:

--Title 3, Texas Education Code, §134.008, which provides TWC with the specific authority to establish rules for the administration of the JET Grant Program; and

--Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule relates to Title 3, Texas Education Code, particularly Chapter 134.

*§804.41. Grants for Career and Technical Education Programs.*

(a) This subchapter is applicable to JET awards to public junior colleges, public technical institutes, public state colleges, open-enrollment charter schools, and school districts for the development of career and technical education programs that meet the requirements of Texas Education Code, §134.006 and §134.007.

(b) A grant received under this subchapter may be used only to:

(1) [tø] support courses or programs that prepare students for career employment in occupations that are identified by local businesses as being in high demand;

(2) [tø] finance the initial costs of career and technical education courses or program development, including the costs of purchasing equipment, and other expenses associated with the development of an appropriate course; and

(3) [tø] finance a career and technical education course or program that leads to a license, certificate, or postsecondary degree.

(c) In awarding a grant under this subchapter, the Agency shall primarily consider the potential economic returns to the state from the

development of the career and technical education course or program. The Agency may also consider whether the course or program:

(1) is part of a new, emerging industry or high-demand occupation;

(2) offers new or expanded dual-credit career and technical educational opportunities in public high schools;

(3) offers new career and technical educational opportunities not previously available to students enrolled at any campus in the Windham School District; or

(4) is provided in cooperation with other public junior colleges, public technical institutes, or public state colleges across existing service areas.

(d) A grant recipient shall provide the matching funds as identified in its application.

(1) Matching funds may be obtained from any source available to the grant recipient, including industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.

(2) A grant recipient's matching share may consist of one or more of the following contributions:

(A) cash;

(B) equipment, equipment use, materials, or supplies;

(C) personnel or curriculum development cost; and/or

(D) administrative costs that are directly attributable to the project.

(3) The matching funds must be expended on the same project for which the grant funds are provided and valued in a manner acceptable or as determined by the Agency.

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 June 18, 2024.

TRD-202402670

Les Trobman

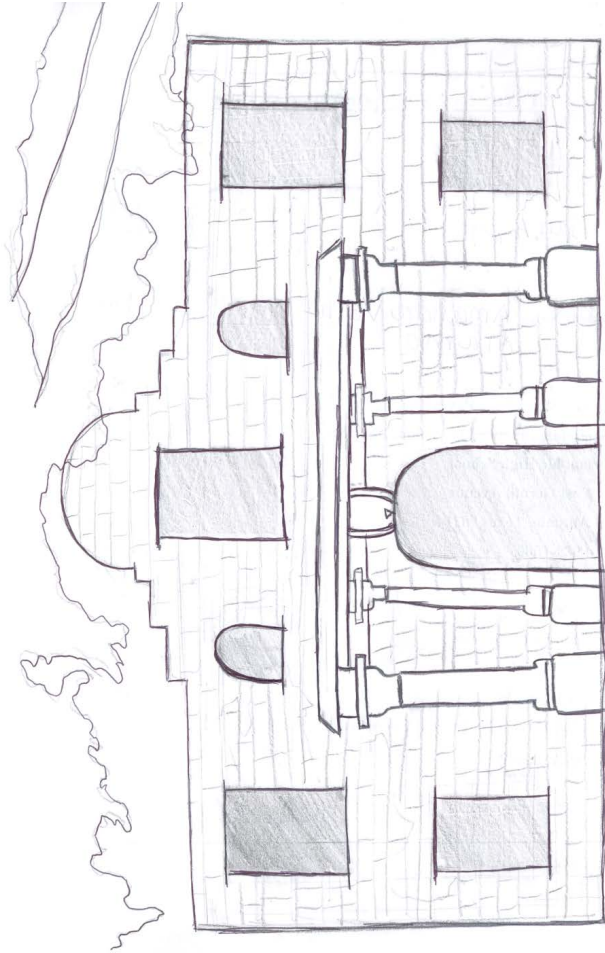
General Counsel

Texas Workforce Commission

Earliest possible date of adoption: August 4, 2024

For further information, please call: (512) 850-8356







# 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 7. BANKING AND SECURITIES

### PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

#### CHAPTER 83. REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

##### SUBCHAPTER A. RULES FOR REGULATED LENDERS

The Finance Commission of Texas (commission) adopts amendments to §83.503 (relating to Administrative Fee) and §83.605 (relating to Limitation on Acquisition Charge) in 7 TAC Chapter 83, Subchapter A, concerning Rules for Regulated Lenders.

The commission adopts the amendments to §83.503 and §83.605 without changes to the proposed text as published in the March 1, 2024, issue of the *Texas Register* (49 TexReg 1169) The rules will not be republished.

The commission received 828 official comments on the proposed amendments. The official comments were submitted by the American Financial Services Association (AFSA), School Fuel, Wise Area Relief Mission (WARM), the Texas Catholic Conference of Bishops (TCCB), the Texas Consumer Credit Coalition (TCCC), the Texas Consumer Finance Association (TCFA), AARP, Texas Appleseed, and 820 individuals. The comments from AFSA, TCCC, and TCFA generally supported the proposed amendments. The comments from School Fuel, WARM, TCCB, AARP, Texas Appleseed, and the individuals opposed the proposed amendments. Of the official comments from individuals, 819 were from individual AARP members and contain substantially the same body text. The commission's responses to the comments are discussed later in this preamble.

The rules in 7 TAC Chapter 83, Subchapter A govern regulated lenders licensed by the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapter 342. In general, the purpose of the adopted rule changes is to adjust the maximum administrative fee and acquisition charge, in order to ensure that the rules reflect administrative costs of closing a loan.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. The OCCC received four informal written precomments on the rule text draft. The OCCC also received seven comments after the March 31 deadline for official comments and considers these comments to be informal comments. The OCCC and the commission appreciate the thoughtful input provided by stakeholders.

Adopted amendments to §83.503 adjust the maximum administrative fee for a consumer loan under Texas Finance Code,

Chapter 342, Subchapter E. The amendments also prescribe a method for annually adjusting the administrative fee based on the consumer price index (CPI). The commission is authorized to set the maximum amount of the administrative fee under Texas Finance Code, §342.201(g). Currently, §83.503(a) sets the maximum administrative fee at \$100. The commission adopted the \$100 maximum amount in 2013. As the commission explained in its preamble to the adoption in 2013, the administrative fee "compensates the lender for the administrative costs of closing a loan and providing money to the borrower." (38 TexReg 5705) (August 30, 2013).

Adopted amendments to §83.605 adjust the maximum acquisition charge for a consumer loan under Texas Finance Code, Chapter 342, Subchapter F. The amendments also prescribe a method for annually adjusting the acquisition charge based on CPI. The commission is authorized to set the maximum amount of the acquisition charge under Texas Finance Code, §342.201(g). Currently, §83.605(a) sets the maximum acquisition charge at the lesser of 10% of the cash advance or \$100. The commission adopted the \$100 maximum amount in 2013. As the commission explained in its preamble to the adoption in 2013, the administrative fee "compensates the lender for performing the administrative activities related to making the loan and the risk involved in engaging in the transaction." (38 TexReg 5705) (August 30, 2013).

Under the adopted amendments to §83.503, the maximum administrative fee will be set at \$125 through June 2025 and will then be adjusted annually based on the consumer price index (CPI). Under the adopted amendments to §83.605, the maximum acquisition charge will be set at the lesser of 12.5% of the cash advance or \$125 through June 2025, and the \$125 amount will be adjusted annually based on CPI. CPI is a measure of the change over time in prices paid by consumers. CPI is widely used as a measure of inflation and the overall price level in an economy. The U.S. Bureau of Labor Statistics explains that CPI is "the most widely used measure of inflation" and that CPI is "used to adjust other economic series for price change." U.S. Bureau of Labor Statistics, Consumer Price Indexes Overview (Jan. 23, 2023). The process for adjusting the fee amounts based on CPI is similar to the process that the Texas Legislature has specified to adjust rate bracket amounts under Texas Finance Code, §§341.201-341.204, and to adjust debt management fee amounts under Texas Finance Code, §394.2101. The OCCC and the commission believe that the CPI-based methodology in the amendments provides an effective method for the administrative fee and acquisition charge to keep pace with increases in costs.

The adoption includes a change in §83.605(a)(1) to replace the current 10% maximum for the acquisition charge with 12.5%. Adjusting the 10% maximum to 12.5% (not to exceed \$125) maintains the same proportionate result between a \$1,000 loan

with the proposed increased maximum acquisition charge of \$125 and a loan less than \$1,000. This change ensures that lenders can be compensated for cost changes since 2013 for loan amounts up to \$1,000.

Between September 2013 (when the \$100 administrative fee went into effect) and November 2023, the CPI for Urban Wage Earners and Clerical Workers increased approximately 31% (from 230.537 to 301.224). In addition to CPI, other indexes increased during this period. Comments from lenders suggest that the wages, office space, and technology are significant categories of costs. During this period, the seasonally adjusted Employment Cost Index for private industry workers (a measure of compensation for civilian workers) increased approximately 35% (from 119.0 to 160.7). The Commercial Real Estate Price Index increased approximately 64% (from 212,305 to 348,923). The Producer Price Index for Information Technology Technical Support and Consulting Services increased approximately 24% (from 103.900 to 128.939). Taken as a whole, this information strongly supports the conclusion that costs have increased for lenders since 2013.

The Federal Reserve Board and Fannie Mae have projected that inflation will continue into 2024 and 2025. The Federal Reserve Board has estimated core inflation at a median value of 2.4% for 2024 (with a range from 2.3% to 3.0%) and a median value of 2.2% for 2025 (with a range from 2.0% to 2.6%). Federal Reserve Board, Summary of Economic Projections, p. 2 (Dec. 13, 2023). Similarly, Fannie Mae expects "that core inflation will continue to move toward the Fed's 2-percent target over the next year." Fannie Mae, "Economic Developments - November 2023" (Nov. 17, 2023). This information suggests that costs will continue to increase for lenders in 2024 and 2025, although at a decelerated pace from the high inflation of the last several years.

The adjustment to the maximum administrative fee and acquisition charge (from \$100 to \$125) approximates cost increases between September 2013 and November 2023. This adjustment will ensure that lenders can be compensated for the administrative costs of making a loan, which is the intent of §83.503 and §83.605. The adjustment will achieve an appropriate balance by maintaining loan affordability for consumers while compensating lenders. In addition, the adjustment from 10% to 12.5% in §83.605 will help ensure that lenders can be compensated for cost changes since 2013 for loan amounts of \$1,000 or less. The amount is a maximum, so lenders are free to offer lower administrative fees and acquisition charges in a competitive marketplace.

Since 2020, the OCCC has received several informal and official comments from stakeholders dealing with the maximum administrative fee under §83.503. In 2020, the OCCC received an informal request from the Texas Consumer Credit Coalition (an organization of licensed lenders) to review the maximum administrative fee. The TCCC requested a rule amendment that would increase the maximum administrative fee and provided aggregated cost information purporting to justify this increase. To determine whether a rule amendment would be appropriate, in July 2021, the OCCC requested information about costs from stakeholders, and conducted an initial stakeholder meeting on this issue. Since then, the OCCC has provided stakeholders with four opportunities to provide informal comments on this issue: once in July and August 2021 (in response to the OCCC's initial information request), once in November 2021 (in response to an advance notice of rule review), once in January 2022 (in response to a precomment draft of amendments), and once in

January 2024 (in response to a precomment draft of the current amendments). In addition, during December 2021 and January 2022, stakeholders submitted official comments in response to a published notice of rule review.

In general, lenders have provided informal and official comments that describe increased costs since 2013 and support amending §83.503. In response to the 2021 rule review notice, the TCCC provided an official comment explaining that the costs of originating loans have increased since the \$100 maximum was adopted in 2013. The comment focuses on costs for labor, occupancy, technology, and compliance. The comment states that although improvements in technology have created economies of scale, lenders face increased financial privacy, identity theft, and cybersecurity requirements. In particular, the comment describes recent amendments to the Federal Trade Commission's Safeguards Rule that will require costs to ensure compliance. Other groups of lenders have made similar points in informal precomments. For example, an attorney commenting on behalf of an association of banks explained that costs for overhead, labor, rent, and utilities have increased since 2013, and provided estimated loan origination costs ranging from \$185.35 (with labor making up \$106.35 of this estimate) to \$268. Another group of licensed lenders supported a CPI-based adjustment method, explaining that "[c]hanges in CPI evidence changes in costs, which is why CPI is commonly used for such adjustments." In 2024, TCCC filed an informal precomment expressing general support for a \$125 administrative fee with CPI-based adjustments, explaining that "as origination costs continue to rise, issues critical to consumer protection have increasingly required attention from our members. Efforts by lenders to safeguard financial privacy, to combat identity theft, and ensure cybersecurity have required continued investments. Additionally, large scale federal initiatives, like the Military Lending Act, the CFPB's third party vendor management requirements, and FTC's Safeguard Rule, have all increased up-front lending costs since the previous 2013 fee increase." Also in 2024, an association of Subchapter F lenders filed a written precomment that supported changing the acquisition charge to the lesser of 12.5% of the cash advance or \$150.

Similarly, the 2024 official comments from AFSA, TCCC, and TCFA support the proposed amendments and describe costs that have increased since 2013. AFSA's comment supports the adjustment and explains that using CPI "as a reference to adjust fees ensures that adjustments align with the genuine cost of doing business in Texas, promoting transparency and reliability in regulatory measures." TCCC's comment describes increased costs for labor, software, hardware, and office space. Similarly, TCFA's comment describes increased expenses for employee wages, rent, utilities, information technology, privacy and security compliance, and general office expenses.

In general, consumer groups have provided informal and official comments that express concerns about increased costs for consumers, and argue that the maximum administrative fee should be maintained at \$100 (or decreased due to increased efficiencies in electronic and online loans). In response to the 2021 published rule review notice, the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending (organizations of community and faith leaders supporting reforms to protect Texas consumers) filed an official comment expressing concerns about increasing the administrative fee, arguing that this is not supported by available data. The comment points out that licensed lenders have experienced profits and certain decreased expenses. The comment argues that if §83.503 is amended, the maximum should be decreased from \$100. Other consumer organizations (sub-

mitting information on behalf of retired Texans and Texans in poverty) have made similar points in informal precomments. In 2024, two consumer organizations filed informal precomments reiterating these concerns about whether an increase to the administrative fee and acquisition charge is appropriate at this time.

Similarly, the 2024 official comments from School Fuel, WARM, TCCB, AARP, Texas Appleseed, and individuals argue that the fees should not be adjusted and express concerns about increased costs for consumers. The comments of School Fuel and WARM emphasize negative effects on poor and low-income consumers. The comments of TCCB, AARP, and Texas Appleseed express similar concerns and argue against an "automatic" or "perpetual" CPI-based adjustment without further review. Regarding the adjustment to the Subchapter F acquisition charge for loans under \$1,000, Texas Appleseed's comment expresses concerns about repeated refinances for Subchapter F loans. One comment from an individual requests reconsidering the rule because it "hurts the people on [the] lower part of the economy" the most. The other 819 individual comments are from AARP members and contain substantially the same body text, opposing the proposed changes because of increased borrowing costs and harm to consumers.

The OCCC and the commission believe that objective measures cited earlier in this preamble (including CPI, Employment Cost Index, and Producer Price Index) strongly indicate that overall costs have increased since 2013. For the same reasons, the OCCC and the commission disagree with the contention that costs have stayed the same or decreased. The OCCC and the commission believe that an adjustment is necessary to ensure that the rules meet their intended purpose of enabling lenders to be compensated for costs of a loan, and therefore disagree with the comments suggesting that the amounts should not be adjusted at this time. Regarding commenters' concerns about the CPI-based adjustments, it is important to note that the amount of any adjustment will not be predetermined. Rather, the adjustments will be based on a particular year's CPI, which is an objective measure of overall costs. For this reason, the OCCC and the commission believe that the CPI adjustment is an appropriate component of the rule changes. Regarding the concern about refinances of Subchapter F loans, the OCCC and the commission believe that the 12.5% limitation on the acquisition charge, together with the rule's existing limitation of one acquisition charge per month, provides an effective way to limit the acquisition charge for smaller loans. The adopted changes achieve an appropriate balance by maintaining loan affordability for consumers while compensating lenders.

## DIVISION 5. INTEREST CHARGES ON LOANS

### 7 TAC §83.503

The rule changes to §83.503 are adopted under Texas Finance Code, §342.201(g), which authorizes the commission to adopt a rule prescribing a reasonable maximum amount of an administrative fee under Chapter 342, Subchapter E. The rule changes to §83.605 are adopted under Texas Finance Code, §342.252(b), which authorizes the commission to adopt a rule prescribing a reasonable maximum amount of an acquisition charge under Chapter 342, Subchapter F. In addition, Texas Finance Code, §342.551, authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342, and Texas Finance Code, §11.304 authorizes the commission to adopt

rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

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 June 21, 2024.

TRD-202402756

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Effective date: July 11, 2024

Proposal publication date: March 1, 2024

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## DIVISION 6. ALTERNATE CHARGES FOR CONSUMER LOANS

### 7 TAC §83.605

The rule changes to §83.605 are adopted under Texas Finance Code, §342.201(g), which authorizes the commission to adopt a rule prescribing a reasonable maximum amount of an administrative fee under Chapter 342, Subchapter E. The rule changes to §83.605 are adopted under Texas Finance Code, §342.252(b), which authorizes the commission to adopt a rule prescribing a reasonable maximum amount of an acquisition charge under Chapter 342, Subchapter F. In addition, Texas Finance Code, §342.551, authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342, and Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

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 June 21, 2024.

TRD-202402757

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Effective date: July 11, 2024

Proposal publication date: March 1, 2024

For further information, please call: (512) 936-7660



## CHAPTER 84. MOTOR VEHICLE INSTALLMENT SALES

### SUBCHAPTER B. RETAIL INSTALLMENT CONTRACT

#### 7 TAC §84.205

The Finance Commission of Texas (commission) adopts amendments to §84.205 (relating to Documentary Fee) in 7 TAC Chapter 84, concerning Motor Vehicle Installment Sales.

The commission adopts the amendments to §84.205 without changes to the proposed text as published in the March 1, 2024, issue of the *Texas Register* (49 TexReg 1172). The rule will not be republished.

The commission received four official comments on the proposed amendments. The official comments were submitted by the Texas Recreational Vehicle Association (TRVA), the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Clay Cooley dealership group. The official comments of TRVA, TADA, and TIADA generally supported the proposed amendments (although the comments of TADA and TIADA recommended additional changes discussed later in this preamble). The official comment of the Clay Cooley group opposed certain portions of the proposed amendments relating to credit reports, sales contracts, and generally accepted accounting principles (GAAP), as discussed later in this preamble.

The rule at §84.205 relates to documentary fees for motor vehicle retail installment transactions. In general, the purposes of the rule changes to 7 TAC §84.205 are: (1) to adjust the documentary fee amount that is presumed reasonable under the rule, and (2) to make technical corrections and updates.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. The OCCC received two informal written precomments on the rule text draft. The OCCC and the commission appreciate the thoughtful input provided by stakeholders.

Under Texas Finance Code, §348.006(a), in a motor vehicle retail installment transaction, the retail seller is authorized to charge "a documentary fee for services rendered for or on behalf of the retail buyer in handling and processing documents relating to the motor vehicle sale." Under §348.006(c), the documentary fee "may not exceed a reasonable amount agreed to by the retail seller and retail buyer for the documentary services." Under §348.006(e), before a retail seller increases the maximum amount of the documentary fee that the seller intends to charge, the seller must provide written notice to the OCCC, and the OCCC may review the amount for reasonableness. Under §348.006(f), a documentary fee is considered reasonable if it is less than or equal to the amount presumed reasonable as established by rule of the commission.

Currently, §84.205 describes the requirements for filing a written notification of an increased documentary fee under Texas Finance Code, §348.006, and describes the criteria that the OCCC uses to determine whether a documentary fee is reasonable. Current §84.205(b)(1) explains that a documentary fee of \$150 or less is presumed reasonable. The commission adopted the \$150 amount in 2016.

Amendments throughout §84.205 adjust the documentary fee amount that is presumed reasonable under the rule from \$150 to \$225. The amendments adjust this amount throughout subsections (a), (b), (c), and (d).

The commission and the OCCC periodically adjust the documentary fee to ensure that it adequately represents a reasonable cost for documentary services in the current market. The agency's ongoing review of documentary fee cost analyses has indicated

that most sellers can demonstrate costs related to documentary services of at least \$225. Of the 211 documentary fee filings submitted to the OCCC since 2020, the average filing amount is \$246.30. In 2022, in a contested case before the State Office of Administrative Hearings, an administrative law judge found that a dealership group met its burden of proving that a range of documentary fee amounts was reasonable. Proposal for Decision, *Office of Consumer Credit Commissioner v. Clay Cooley Entities*, SOAH Docket No. 466-22-0322 (Oct. 11, 2022) (hereinafter "Clay Cooley PFD"). The case involved extensive analysis of the dealership group's costs relating to payroll, facilities, software, forms, printing, and postage. The case resulted in a final order that approved a range of fees from \$202.58 to \$267.83 (with an average of \$245) as reasonable. Final Order to Reduce Documentary Fees and Pay Restitution, *Office of Consumer v. Clay Cooley Entities*, SOAH Docket No. 466-22-0322 (Jan. 18, 2023).

Based on the analysis in the contested case regarding the Clay Cooley entities, as well as the OCCC's ongoing review of documentary fee cost analyses, the OCCC and the commission believe that it is appropriate to adjust the amount presumed reasonable from \$150 to \$225. The \$225 amount is well below typical documentary fee amounts in other states. A 2023 survey of 50 states and the District of Columbia reflects an average documentary fee of \$390. CarEdge, "Car Dealer Doc Fee by State in 2023 (Updated)," (rev. Dec. 8, 2023).

The official comments of TRVA, TADA, and TIADA generally support the proposed amendments to increase the reasonable documentary fee amount from \$150 to \$225. However, TIADA's comment requests that the OCCC and the commission consider an additional annual adjustment to the reasonable documentary fee amount based on the Consumer Price Index (CPI). The commission declines to use a recurring CPI-based adjustment to the reasonable documentary fee amount at this time. If documentary costs increase in the future, §84.205 enables dealers to file for a higher documentary fee and provide a cost analysis supporting the higher fee. The commission and the OCCC may periodically review the reasonable documentary fee amount.

The adoption includes additional amendments that clarify requirements for a documentary fee cost analysis and include technical corrections. These clarifying amendments are discussed in the following paragraphs.

An amendment to §84.205(d)(2)(B) specifies that costs must be determined "in accordance with this section" in addition to being determined in accordance with generally accepted accounting principles (GAAP). This is intended to clarify that any costs included in the documentary fee must comply with both §84.205 and GAAP. In other words, if a cost is includable under GAAP but is not includable under §84.205, then it may not be included in the documentary fee. This is consistent with the analysis used by the administrative law judge in the contested case regarding the Clay Cooley entities. See Clay Cooley PFD at 26 (discussing specific timing requirements of the rule that control "rather than the general application of GAAP").

Amendments to §84.205(d)(2)(E)(ii) clarify requirements for including the cost of a credit report in the documentary fee. The amendments explain that a seller may include the cost of a credit report for a buyer who ultimately purchases a motor vehicle, that the seller must incur the cost uniformly in cash and credit transactions, and that the documentary fee may not include the cost of obtaining a credit report in unconsummated transactions. This rule text clarifies an issue that was analyzed by the administra-

tive law judge in the contested case regarding the Clay Cooley entities. See Clay Cooley PFD at 30 (finding that the current text of §84.205 "does not restrict credit report costs to only consummated deals"). The OCCC and the commission believe that it is appropriate for the rule to limit credit report costs to consummated transactions. Credit report costs for unconsummated transactions are an indirect cost, do not directly relate to processing documents for a consummated transactions, and should not be subsidized by buyers in consummated transactions.

The Clay Cooley group's official comment states that the amendment regarding credit reports in §84.205(d)(2)(E)(ii) should not be adopted as proposed. The comment argues that because credit reports are required for all prospective buyers, the cost of a credit report "should be recoverable by the seller whether or not the sale is ultimately consummated." The commission disagrees with this comment. Without the proposed change to §84.205(d)(2)(E)(ii), the rule leaves open the possibility that buyers in consummated transactions will subsidize costs for transactions that are unconsummated. Credit report costs for unconsummated transactions should appropriately be considered an indirect cost, not a cost that directly relates to processing documents for a particular sale.

TADA's official comment explains that a credit report might be obtained for a co-buyer, and that a second or third credit report might be requested because of a block or freeze. TADA "encourages the agency not to foreclose this necessity for a co-buyer as well as when a block or freeze is indicated, by only allowing one credit report to be included in a dealer's reasonableness criteria." The commission disagrees with the suggestion to change the current language in §84.205(d)(2)(E)(ii) that refers to "a credit report" in the singular. Part of the intent of the rule is to ensure that the documentary fee is limited to costs required to comply with the law and that costs arise equally in cash and credit transactions. The commission does not believe that revising the rule to refer to multiple credit reports is consistent with this intent.

An additional change to §84.205(d)(2)(E)(ii) replaces a reference to the USA PATRIOT Act with a reference to regulations of the Office of Foreign Assets Control (OFAC). OFAC rules prohibit sellers from doing business with certain specially designated nationals or blocked persons. See U.S. Department of the Treasury, Office of Foreign Assets Control, "Specially Designated Nationals And Blocked Persons List (SDN) Human Readable Lists" (rev. Dec. 20, 2023). Obtaining a credit report can be a way for sellers to ensure compliance with these OFAC rules. The citation to the OFAC rules is a more appropriate citation for this proposition than the current rule's reference to a provision of the USA PATRIOT Act.

Amendments to §84.205(d)(3)(B)(ii)(I) clarify requirements for including the cost of a sales contract in the documentary fee. The amendments explain that any included cost for a sales contract must be in the form of "only one" of the following: a purchase agreement, a buyer's order, a bill of sale, or a retail installment sales contract (excluding provisions used only in credit transactions). Because only one sales contract is legally required in order to sell a motor vehicle, this text is consistent with the requirement under §84.205(d)(2)(B) that costs must be legally required. This rule text clarifies an ambiguity discussed by the administrative law judge in the contested case regarding the Clay Cooley entities. See Clay Cooley PFD at 15-17 (describing different possible interpretations of §84.205(d)(3)(B)(ii)(I) and an ambiguity regarding whether more than one type of sales contract may be included in the documentary fee).

The Clay Cooley group's official comment states that the amendment regarding sales contracts in §84.205(d)(3)(B)(ii)(I) should not be adopted as proposed. The comment states that a final contract may be "based on different combinations of more than one document," and suggests that the provision "should either be left as it is currently written or amended to allow for recovery of costs related to more than one of the relevant forms, as components of a single, finalized contract for sale." The commission disagrees with this comment. As mentioned in the previous paragraph, the amended text helps ensure that costs are legally required (because only one sales contract is legally required). The amended text also helps ensure that costs arise equally in cash and credit transactions (because a buyer's order would typically be sufficient in a cash transaction).

Other amendments to §84.205(d)(3)(B)(ii) make technical corrections to the list of required forms that may be included in the documentary fee. An amendment removes current §84.205(d)(3)(B)(ii)(III), which allows the documentary fee to include the cost of the County of Title Issuance form (Form VTR-136). The OCCC understands that this form is now obsolete and is no longer used, following the passage of SB 876 (2021) and amendments to Texas Transportation Code, Chapter 501. An amendment at §84.205(d)(3)(B)(ii)(IV) replaces a reference to the USA PATRIOT Act with a reference to regulations of OFAC, as discussed earlier in this preamble. Amendments at §84.205(d)(3)(B)(ii)(VII) and (VIII) make technical corrections to rule references regarding buyer's temporary tags. Other amendments throughout §84.205(d)(3)(B)(ii) would other sub-clauses accordingly.

An amendment to §84.205(d)(3)(B)(v) explains that the documentary fee may not include costs incurred while the dealership is closed, and that the documentary fee may not include costs relating to areas that are not involved in the processing of documents (e.g., common areas, break rooms, bathrooms). This text is consistent with the current requirement in §84.205(d)(2) that costs must directly relate to the seller's preparation and processing of documents for a motor vehicle sale. The amendment will help ensure that any facilities costs included in the documentary fee directly relate to processing documents.

The Clay Cooley group's official comment states that the amendment regarding GAAP in §84.205(d)(2)(B) should not be adopted as proposed, and that the proposed amendments regarding costs while the dealership is closed in §84.205(d)(3)(B)(v) should not be adopted as proposed. The comment argues that under GAAP's "full absorption costing" scheme, "[o]vernight storage of legally required documents is a real, legally required cost that accrues to all businesses that process such documents." The commission disagrees with this comment. The rule at §84.205 is intended to ensure that documentary fee costs are limited to the required costs to process documents relating to a sale, and that costs directly relate to processing documents. In order to carry out this intent, it is important that the rule articulate specific standards of reasonableness and that cost analyses comply with the standards described in the rule. Allowing GAAP to override the rule would be inconsistent with this intent. In addition, if the rule allowed costs incurred while a dealership is closed, this would fail to ensure that all included costs directly relate to processing documents.

The rule amendments are adopted under Texas Finance Code, §348.006(f), which authorizes the Finance Commission to adopt a rule establishing a documentary fee amount that is presumed reasonable, and Texas Finance Code, §348.006(h), which au-

thorizes the commission to adopt rules to enforce Texas Finance Code, §348.006, including rules relating to standards for a documentary fee reasonableness determination. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4, and Texas Finance Code, §348.513 authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 348.

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 June 21, 2024.

TRD-202402760

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Effective date: July 11, 2024

Proposal publication date: March 1, 2024

For further information, please call: (512) 936-7660



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 74. CURRICULUM REQUIREMENTS

##### SUBCHAPTER DD. COMMISSIONER'S RULES CONCERNING MATHEMATICS INSTRUCTION

###### 19 TAC §74.2101

The Texas Education Agency (TEA) adopts new §74.2101, concerning the middle school advanced mathematics program. The amendment is adopted with changes to the proposed text as published in the February 23, 2024 issue of the *Texas Register* (49 TexReg 950) and will be republished. The adopted new section implements Senate Bill (SB) 2124, 88th Texas Legislature, Regular Session, 2023, by establishing requirements related to automatic enrollment of certain middle school students into an advanced mathematics program designed to prepare students to enroll in Algebra I in Grade 8.

**REASONED JUSTIFICATION:** SB 2124, passed by the 88th Texas Legislature, Regular Session, 2023, established Texas Education Code (TEC), §28.029, requiring each school district and open-enrollment charter school to automatically enroll in an advanced mathematics course all Grade 6 students who performed in the top 40% on either the Grade 5 mathematics assessment instrument administered under TEC, §39.023(a), or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework. The statute includes an opt-out provision for parents or guardians who wish to remove their child from automatic enrollment in the advanced mathematics course.

The adopted rule requires each school district and open-enrollment charter school to develop a middle school advanced mathematics program for students in Grades 6-8 to enable students to enroll in Algebra I in Grade 8. The adopted rule includes requirements for enrollment criteria and parent notification.

The following changes were made to the rule based on public comment.

Subsection (b) was modified to clarify that local education agencies (LEAs) must identify, rather than develop, a local measure for use in determining student eligibility for the middle school advanced mathematics program.

Subsection (c) was modified to clarify that students can qualify for automatic admission for the middle school advanced mathematics program by scoring either in the 60th percentile or higher on statewide scores for the Grade 5 mathematics assessment instrument or in the top 40% on a local measure identified by the LEA.

New subsection (h) was added to establish that LEAs are required to obtain written approval from the parent or guardian to remove a student from the middle school advanced mathematics program.

New subsection (i) was added to require LEAs to annually report to the agency data related to student enrollment and performance in the middle school advanced mathematics program in a manner and time to be determined by TEA.

As proposed, the new rule did not have a data and reporting impact. However, in response to public comment, a reporting requirement was added at adoption. Therefore, the adopted new rule would have a data and reporting impact. New subsection (i) requires each school district and open-enrollment charter school to annually report to TEA data related to student enrollment and performance in the middle school advanced mathematics program in a manner and time to be determined by TEA.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period began February 23, 2024, and ended March 25, 2024. Following is a summary of public comments received and agency responses.

**Comment.** One teacher, six administrators, and one community member stated the current accountability system needs to be refined to address Domains 1 and 2 to ensure schools are not negatively impacted when their highest math performers are not included because they are taking Algebra I.

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

**Comment.** Representatives from E3 Alliance, Texas Business Leadership Council, Texas 2036, Commit, Teach Plus, Educate Texas, The Education Trust, Democrats for Education Reform-Texas, Good Reason Houston, Teach for America, and Opportunity Austin requested that TEA conduct oversight on school system participation over time to meet the legislative intent of SB 2124, 88th Texas Legislature, Regular Session, 2024. The commenters stated that non-punitive audits should focus on the implementation of the intended goal of increasing advanced math opportunities for all students and should serve to create a culture of transparency, accountability, and continuous improvement.

**Response.** The agency disagrees and has determined that it does not have statutory authority to monitor compliance with the requirements of SB 2124.

Comment. Representatives from E3 Alliance, Texas Business Leadership Council, Texas 2036, Commit, Teach Plus, Educate Texas, The Education Trust, Democrats for Education Reform-Texas, Good Reason Houston, Teach for America, and Opportunity Austin requested that TEA clarify the agency's intent to collect information or data on which measure school systems are using to determine student placement to meet the legislative intent of SB 2124.

Response. The agency agrees that the collection of data related to implementation of the middle school advanced mathematics programs is important. In response to this and other comments, new subsection (i) was added at adoption to require each school district and open-enrollment charter school to annually report to TEA data related to student enrollment and performance in the middle school advanced mathematics program in a manner and time to be determined by TEA.

Comment. A Texas counselor, a Texas administrator, and a regional education service center specialist stated that more guidance is needed regarding high school expectations for students in middle school advanced mathematics. The commenters expressed concern that students may opt not to enroll in or not be offered advanced math classes during their senior year in high school.

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

Comment. Two Texas teachers expressed opposition to the low bar for automatic enrollment in middle school advanced mathematics programs and suggested revising the criteria for automatic enrollment.

Response. The agency provides the following clarification. TEC, §28.029(b), requires all school districts and open-enrollment charter schools to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on the Grade 5 mathematics assessment or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency Grade 5 mathematics coursework.

Comment. A Texas administrator expressed concern there would be an outsize impact on small districts when only a small number of students qualify for the program. The commenters cited changes to student-to-staff ratios, the need for teachers to add additional certifications, and budgetary constraints as consequences of the new requirement.

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

Comment. A Texas administrator expressed full support of the proposed rule and stated that their district currently has local policy that mirrors the proposal.

Response. The agency agrees. The agency made additional changes at adoption to respond to other comments.

Comment. Two Texas administrators and a community member asked if there would be online coursework or textbooks. The commenters expressed concern for schools that would have to create curriculum for a new course with no content standards or curriculum to follow.

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

Comment. A Texas administrator stated that some districts have block scheduling at the high school level, which allows students

to complete eight math courses during high school. The commenter asked if these schools would be able to get a waiver from offering Algebra I in middle school since they have planned the sequence of courses for high school.

Response. The agency provides the following clarification. TEC, §28.029, requires LEAs to develop a middle school advanced mathematics program that is designed to enable students to enroll in Algebra I in Grade 8 and to automatically enroll students who meet certain criteria into the program in Grade 6.

Comment. A Texas administrator requested that districts be allowed to provide the required parent notification within the first 10 days of instruction rather than 14 days prior to instruction.

Response. The agency disagrees and has determined that requiring the written notification no later than 14 days prior to the start of instruction was appropriate as proposed.

Comment. One counselor, three Texas teachers, ten administrators, and two community members expressed concern with the ability of small rural schools with limited teacher positions and scheduling flexibility to implement these requirements.

Response. This comment is outside the scope of the proposed rulemaking. The agency also provides the following clarification. TEA staff will be posting guidance and resources on the agency's advanced mathematics webpage to assist LEAs in implementing middle school advanced mathematics programs.

Comment. A Texas counselor and a Texas administrator asked if Grade 5 State of Texas Assessments of Academic Readiness (STAAR®) math results would be released earlier as a result of these requirements. The commenters stated that LEAs would need time to pull data, adjust schedules, set the notification system in place, and ensure that parents receive the information.

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

Comment. Two Texas administrators and two community members asked when Texas Essential Knowledge and Skills (TEKS) would be published for the advanced middle school mathematics courses.

Response. This comment is outside the scope of the proposed rulemaking. Additionally, the agency provides the following clarification. At this time, the TEKS for Grades 6-8 mathematics are expected to remain in effect and must be used to provide instruction for middle school math. LEAs must provide instruction in all the TEKS for Grades 6-8, and students must demonstrate proficiency in those TEKS prior to enrolling in Algebra I. LEAs have the flexibility to combine or compact the TEKS for multiple grade levels to best serve their students. These are local decisions.

Comment. A Texas teacher and two Texas administrators expressed concern with the criteria for automatically enrolling students in an advanced mathematics program. The commenters stated that there is a large gap in rigor between the TEKS for Grade 5 and Grade 6 and that scoring in the top 60% on the Grade 5 Math STAAR® test is not a true representation of a student's ability to be in an advanced math class in Grade 6.

Response. This comment is outside the scope of the proposed rulemaking. Additionally, the agency provides the following clarification. TEC, §28.029(b), requires all school districts and open-enrollment charter schools to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on the Grade 5 mathematics assessment or on a local

measure that includes the student's Grade 5 class ranking or a demonstrated proficiency Grade 5 mathematics coursework.

Comment. Two Texas administrators requested that the EC-6 certification be approved for teaching advanced Grade 6 mathematics. The commenters stated that, if necessary, this could also include district-led professional learning to supplement these teachers' knowledge of the TEKS for Grade 7 and higher.

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

Comment. A Texas administrator asked if the state will provide training supports for districts, campuses, or teachers. The commenter stated that Texas needs to ensure teachers have the tools to support students to stay on the path when the math gets hard rather than dropping to the on-level pathway.

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

Comment. A Texas administrator said there is a critical lack of knowledge in some middle school mathematics teachers who do not know how to teach math at the rigor of their grade level. The commenter stated that all the focus on math instruction is at the lower elementary level, not middle school.

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

Comment. Four Texas administrators and a parent asked for clarification regarding whether a student who does not fall in the 60th percentile or higher but does fall in the top 40% of the local measure must be automatically enrolled in a middle school advanced math program or if it is up to local LEA discretion.

Response. The agency agreed that additional clarification on the requirements for automatic enrollment was necessary. In response to this and other comments, subsection (c) was modified to clarify that students can qualify for automatic admission for the middle school advanced mathematics program by scoring either in the 60th percentile or higher on statewide scores for the Grade 5 mathematics assessment instrument or in the top 40% on a local measure identified by the LEA.

Comment. Two Texas administrators, two Texas teachers, and a community member stated that it is unfair to automatically place a student in a middle school advanced math program. The commenters stated that the school or district should not be eliminated from that decision making.

Response: The agency disagrees and provides the following clarification. TEC, §28.029(b), requires all school districts and open-enrollment charter schools to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on the Grade 5 mathematics assessment or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency Grade 5 mathematics coursework.

Comment: Two counselors, a Texas administrator, and two community members stated that policy makers are more concerned in over-preparing students at such a young age and less concerned with their social emotional mental health. They are concerned that students are not mature enough to handle the stress this program may put them under.

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

Comment. A counselor, nine Texas administrators, six teachers, and two community members expressed concern that the 60th percentile on the Grade 5 mathematics assessment is too low a cut-point for placement in advanced mathematics. The commenters proposed the rule specify the criteria be students who performed at the "Meets" or "Masters" level on STAAR®.

Response. The agency provides the following clarification. TEC, §28.029(b), requires all school districts and open-enrollment charter schools to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on the Grade 5 mathematics assessment or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency Grade 5 mathematics coursework. Students who score in the 60th or higher percentile are performing in the top 40% statewide.

Comment. A Texas teacher and four Texas administrators stated that the establishment of advanced middle school math courses would be particularly challenging in a small district where the students are divided into only two sections per grade level. The commenters requested more flexibility in the way districts implement a plan to increase student participation in Grade 8 Algebra I.

Response. The agency provides the following clarification. TEC, §28.029, requires LEAs to develop a middle school advanced mathematics program that is designed to enable students to enroll in Algebra I in Grade 8 and to automatically enroll students who meet certain criteria into the program in Grade 6.

Comment. Three Texas administrators, a teacher, and a community member stated that districts should have the ability to give a local assessment to determine placement in an advanced mathematics class that is not based solely on Grade 5 coursework.

Response. The agency agrees and has determined that LEAs may administer a local assessment as a local measure. In response to this and other comments, subsection (b) was modified at adoption to clarify that LEAs must identify, rather than develop, a local measure for use in determining student eligibility for the middle school advanced mathematics program.

Comment: Representatives from E3 Alliance, Texas Business Leadership Council, Texas 2036, Commit, Teach Plus, Educate Texas, The Education Trust, Democrats for Education Reform-Texas, Good Reason Houston, Teach for America, and Opportunity Austin recommend adding a statement regarding the use of student ranking, clarifying that the practice is intended for school systems currently ranking students in Grade 5 based on overall performance. The commenters emphasized that student ranking is not a mandatory or recommended method for identifying students to be entered into advanced math pathways.

Response. The agency disagrees that the suggested clarification is necessary. Additionally, the agency provides the following clarification. TEC, §28.029, requires that the local measure include the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework.

Comment. Texas Classroom Teachers Association recommended that subsection (d) be combined with proposed subsection (c) so that it is clear that a district can use either the Grade 5 Math STAAR® results or a local measure in all cases except when no Grade 5 Math STAAR® results are available, in which case a local measure must be used.

Response. The agency disagrees and has determined that the language as proposed would limit a student's ability to qualify



for the program. In response to this and other comments, subsection (c) was modified at adoption to specify that students can qualify for automatic admission for the middle school advanced mathematics program by scoring either in the 60th percentile or higher on statewide scores for the Grade 5 mathematics assessment instrument or in the top 40% on a local measure identified by the LEA.

Comment. A Texas administrator asked how the new requirement would affect honor students.

Response. The agency provides the following clarification. LEAs are responsible for the instructional arrangement and support of various special populations, including honors classes and students.

Comment. A Texas administrator asked if performance on the Algebra I end-of-course assessment could be applied to high school math scores out of concern that the top students would not count toward the high school's accountability.

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

**STATUTORY AUTHORITY.** The new section is adopted under Texas Education Code (TEC), §28.029, as added by Senate Bill 2124, 88th Texas Legislature, Regular Session, 2023, which requires a school district or open-enrollment charter school to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on either the Grade 5 mathematics assessment instrument administered under TEC, §39.023(a), or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §28.029, as added by Senate Bill 2124, 88th Texas Legislature, Regular Session, 2023.

§74.2101. *Middle School Advanced Mathematics Program.*

(a) Each school district and open-enrollment charter school shall develop a middle school advanced mathematics program for students in Grades 6-8 to enable students to enroll in Algebra I in Grade 8.

(b) Each school district and open-enrollment charter school shall identify a local measure for use in determining student eligibility for automatic enrollment in a middle school advanced mathematics program.

(c) School districts and open-enrollment charter schools shall automatically enroll in a middle school advanced mathematics program each Grade 6 student whose performance was either:

(1) in the 60th percentile or higher on statewide scores for the Grade 5 mathematics assessment instrument administered under Texas Education Code, §39.023(a); or

(2) in the top 40% on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework.

(d) A local measure shall be used to determine enrollment of Grade 6 students for whom there are no results on the state Grade 5 mathematics assessment.

(e) A school district or open-enrollment charter school shall make public the criteria for automatic enrollment in a middle school advanced mathematics program, including any criteria for a local measure, before the start of each school year.

(f) The parent or guardian of a student who will be automatically enrolled in a middle school advanced mathematics program may opt the student out of automatic enrollment in an advanced mathematics program.

(g) Each school district and open-enrollment charter school shall provide a written notice to the parent or guardian of each student entering Grade 6 who will be automatically enrolled in a middle school advanced mathematics program. The written notification shall be provided no later than 14 days before the first day of instruction for the school year. The required notice shall include a description of:

(1) the purpose of the program;

(2) the middle school advanced mathematics program offered by the school district or open-enrollment charter school, including an overview of the content addressed at each grade level;

(3) resources offered to support student success;

(4) the right of the parent or guardian to opt their child out of the middle school advanced mathematics program; and

(5) the process for a parent or guardian to opt their child out of the program and any associated deadlines.

(h) A school district or open-enrollment charter school shall obtain written approval from the parent or guardian to remove a student from the middle school advanced mathematics program.

(i) Each school district and open-enrollment charter school shall annually report to the Texas Education Agency (TEA) data related to student enrollment and performance in the middle school advanced mathematics program in a manner and time to be determined by TEA.

(j) This section does not prohibit a school district or open-enrollment charter school from establishing a process to initially enroll Grade 7 or 8 students in a middle school advanced mathematics 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 June 18, 2024.

TRD-202402662

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: July 8, 2024

Proposal publication date: February 23, 2024

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



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 559. DAY ACTIVITY AND HEALTH SERVICES REQUIREMENTS

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §§559.1, 559.11, 559.81, and 559.91; the repeal of §§559.2, 559.12 - 559.23, 559.61 - 559.64, 559.82 - 559.84, 559.92 - 559.95, and

559.102 - 559.105; and new §§559.3, 559.13, 559.15, 559.17, 559.19, 559.21, 559.23, 559.25, 559.27, 559.29, 559.31, 559.33, 559.35, 559.37, 559.39, 559.50 - 559.53, 559.55, 559.57, 559.59, 559.61, 559.63, 559.65, 559.67, 559.69, 559.71, 559.73, 559.75, 559.77, 559.79, 559.83, 559.85, 559.87, 559.93, 559.95, 559.97, 559.99, 559.101, 559.103, 559.105, and 559.107.

New §559.3 is adopted with changes to the proposed text as published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1385). This rule will be republished.

The amendments to §§559.1, 559.11, 559.81, and 559.91; the repeal of §§559.2, 559.12 - 559.23, 559.61 - 559.64, 559.82 - 559.84, 559.92 - 559.95, and 559.102 - 559.105; and new §§559.13, 559.15, 559.17, 559.19, 559.21, 559.23, 559.25, 559.27, 559.29, 559.31, 559.33, 559.35, 559.37, 559.39, 559.50 - 559.53, 559.55, 559.57, 559.59, 559.61, 559.63, 559.65, 559.67, 559.69, 559.71, 559.73, 559.75, 559.77, 559.79, 559.83, 559.85, 559.87, 559.93, 559.95, 559.97, 559.99, 559.101, 559.103, 559.105, and 559.107, are adopted without changes to the proposed text as published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1385). These rules will not be republished.

## BACKGROUND AND JUSTIFICATION

The amendments, new sections, and repeals are necessary to comply with House Bill (H.B.) 1009 and H.B. 4696 from the 88th Legislature, Regular Session, 2023. The amendments, new sections, and repeals also reorganize rule sections so that key topics are easier to find, add clarity and specificity to rules, and update references throughout the chapter.

## COMMENTS

The 31-day comment period ended April 8, 2024.

During this period, HHSC received a comment regarding the proposed rules from one commenter. The commenter expressed appreciation for the reorganization and addition of new rule sections. The commenter indicated that the proposed rules make key topics easier to find.

Minor editorial changes were made to §559.3 to ensure the definitions are listed in alphabetical order.

## SUBCHAPTER A. INTRODUCTION

### 26 TAC §§559.1, §559.3

#### STATUTORY AUTHORITY

The amendment and new section are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

#### §559.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Abuse-- Negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person

by the person's caretaker, family member, or other individual who has an ongoing relationship with the person, or sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code §21.08 (relating to Indecent Exposure) or Texas Penal Code, Chapter 22 (relating to Assaultive Offenses) committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

(2) Actual harm--A negative outcome that compromises the physical, mental, or emotional well-being of an elderly person or a person with a disability receiving services at a facility.

(3) Adult--A person 18 years of age or older or an emancipated minor.

(4) Affiliate--With respect to a:

(A) partnership, each partner of the partnership;

(B) corporation, each officer, director, principal stockholder, and subsidiary; and each person with a disclosable interest;

(C) natural person, includes each:

(i) person's spouse;

(ii) partnership and each partner thereof, of which said person or any affiliate of said person is a partner; and

(iii) corporation in which the person is an officer, director, principal stockholder, or person with a disclosable interest.

(5) Alzheimer's disease and related disorders--Alzheimer's disease and any other irreversible dementia described by the Centers for Disease Control and Prevention (CDC) or the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(6) Ambulatory--Mobility not relying on walker, crutch, cane, or other physical object or use of wheelchair.

(7) Applicant--A person applying for a license under Texas Human Resources Code, Chapter 103.

(8) Change of ownership--An event that results in a change to the federal taxpayer identification number of the license holder of a facility. The substitution of a personal representative for a deceased license holder is not a change of ownership.

(9) Client--An individual receiving day activity and health services.

(10) Construction, existing--See definition of existing building.

(11) Construction, new--Construction begun after April 1, 2007.

(12) Construction, permanent--A building or structure that meets a nationally recognized building code's details for foundations, floors, walls, columns, and roofs.

(13) Controlling person--A person with the ability, acting alone or with others, to directly or indirectly influence, direct, or cause the direction of management, expenditure of money, or policies of a facility or other person. A controlling person includes:

(A) a management company, landlord, or other business entity that operates or contracts with others for the operation of a facility;

(B) any person who is a controlling person of a management company or other business entity that operates a facility or that contracts with another person for the operation of a facility;

(C) an officer or director of a publicly traded corporation that is, or that controls, a facility, management company, or other business entity described in subparagraph (A) of this paragraph but does not include a shareholder or lender of the publicly traded corporation; and

(D) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of a facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility, except an employee, lender, secured creditor, landlord, or other person who does not exercise formal or actual influence or control over the operation of a facility.

(14) DADS--The term referred to the Texas Department of Aging and Disability Services; it now refers to HHSC.

(15) DAHS--Day activity and health services. Health, social, and related support services as defined in this section.

(16) DAHS facility--A facility that provides services through a day activity and health services program on a daily or regular basis, but not overnight, to four or more elderly persons or persons with disabilities who are not related to the owner of the facility by blood, marriage, or adoption.

(17) DAHS program--A structured, comprehensive program offered by a DAHS facility that is designed to meet the needs of adults with functional impairments by providing DAHS in accordance with individual plans of care in a protective setting.

(18) Days--Calendar days, unless otherwise specified.

(19) Department--HHSC.

(20) Dietitian consultant--A person licensed as a dietitian by the Texas Department of Licensing and Regulation or a person with a bachelor's degree with major studies in food and nutrition, dietetics, or food service management.

(21) Direct ownership interest--Ownership of equity in the capital, stock, or profits of, or a membership interest in, an applicant or license holder.

(22) Direct service staff--An employee or contractor of a facility who directly provides services to individuals, including the director, a licensed nurse, the activities director, and an attendant. An attendant includes a driver, food service worker, aide, janitor, housekeeper, and laundry worker. A dietitian consultant is not a member of the direct service staff.

(23) Director--The person responsible for the overall operation of a facility.

(24) Disclosable interest--Five percent or more direct or indirect ownership interest in an applicant or license holder.

(25) Elderly person--A person 65 years of age or older

(26) Executive Commissioner--The executive commissioner of HHSC.

(27) Existing building--A building or portion thereof that, at the time of initial inspection by HHSC, is used as an adult day care occupancy, as defined by Life Safety Code, NFPA 101, 2000 edition, Chapter 17, for existing adult day care occupancies; or has been converted from another occupancy or use to an adult day care occupancy, as defined by Chapter 16 for new adult day care occupancies.

(28) Exploitation--An illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing re-

lationship with the elderly person or person with a disability, using the resources of an elderly person or person with a disability for monetary or personal benefit, profit, or gain without the informed consent of the elderly person or person with a disability.

(29) Facility--A licensed DAHS facility.

(30) Fence--A barrier to prevent elopement of an individual or intrusion by an unauthorized person, consisting of posts, columns, or other support members, and vertical or horizontal members of wood, masonry, or metal.

(31) FM--FM Global (formerly known as Factory Mutual). A corporation whose approval of a product indicates a level of testing and certification that is acceptable to HHSC.

(32) Fraud--A deliberate misrepresentation or intentional concealment of information to receive or to be reimbursed for service delivery to which an individual is not entitled.

(33) Functional impairment--A condition that requires assistance with one or more personal care services.

(34) Health assessment--An assessment of an individual by a facility used to develop the individual's plan of care.

(35) Health services--Services that include personal care, nursing, and therapy services.

(A) Personal care services include:

(i) bathing;

(ii) dressing;

(iii) preparing meals;

(iv) feeding;

(v) grooming;

(vi) taking self-administered medication;

(vii) toileting;

(viii) ambulation; and

(ix) assistance with other personal needs or maintenance.

(B) Nursing services may include:

(i) administering medications;

(ii) physician-ordered treatments, such as dressing changes; and

(iii) monitoring the health condition of the individual.

(C) Therapy services may include:

(i) physical therapy;

(ii) occupational therapy; and

(iii) speech therapy.

(36) HHSC--The Texas Health and Human Services Commission.

(37) Human service program--An intentional, organized, ongoing effort designed to provide good to others. The characteristics of a human service program are:

(A) dependent on public resources and are planned and provided by the community;

(B) directed toward meeting human needs arising from day-to-day socialization, health care, and developmental experiences; and

(C) used to aid, rehabilitate, or treat people in difficulty or need.

(38) Human services--Include:

(A) personal social services, including:

- (i) DAHS;
- (ii) counseling;
- (iii) in-home care; and
- (iv) protective services;

(B) health services, including:

- (i) home health;
- (ii) family planning;
- (iii) preventive health programs;
- (iv) nursing facility; and
- (v) hospice;

(C) education services, meaning:

- (i) all levels of school;
- (ii) Head Start; and
- (iii) vocational programs;

(D) housing and urban environment services, including public housing;

(E) income transfer services, including:

- (i) Temporary Assistance for Needy Families; and
- (ii) Supplemental Nutrition Assistance Program;

and

(F) justice and public safety services, including:

- (i) parole and probation; and
- (ii) rehabilitation.

(39) Immediate threat to the health or safety of an elderly person or a person with a disability--A situation that causes, or is likely to cause, serious injury, harm, or impairment to, or the death of, an elderly person or a person with a disability receiving services at a facility.

(40) Indirect ownership interest--Any ownership or membership interest in a person who has a direct ownership interest in an applicant or license holder.

(41) Individual--A person who applies for or is receiving services at a facility.

(42) Isolated--When a very limited number of elderly persons, or persons with disabilities, receiving services at a facility are affected and a very limited number of staff are involved, or the situation has occurred only occasionally.

(43) License holder--A person who holds a license to operate a facility.

(44) Life Safety Code, NFPA 101--The Code for Safety to Life from Fire in Buildings and Structures, NFPA 101, a publication of the National Fire Protection Association, Inc. that:

(A) addresses the construction, protection, and occupancy features necessary to minimize danger to life from fire, including smoke, fumes, or panic; and

(B) establishes minimum criteria for the design of egress features to permit prompt escape of occupants from buildings or, where desirable, into safe areas within the building.

(45) Long-term care facility--A facility that provides care and treatment or personal care services to four or more unrelated persons, including:

(A) a nursing facility licensed under Texas Health and Safety Code, Chapter 242;

(B) an assisted living facility licensed under Texas Health and Safety Code, Chapter 247; and

(C) an intermediate care facility serving individuals with an intellectual disability or related conditions licensed under Texas Health and Safety Code, Chapter 252.

(46) LVN--Licensed vocational nurse. A person licensed by the Texas Board of Nursing who works under the supervision of an RN or a physician.

(47) Management services--Services provided under contract between the owner of a facility and a person to provide for operation of a facility, including administration, staffing, maintenance, and delivery of services. Management services do not include contracts solely for maintenance, laundry, or food services.

(48) Manager--A person who has a contractual relationship to provide management services to a facility.

(49) Medically related program--A program providing the services listed in paragraph (37)(B) of this section.

(50) Neglect--Failure to provide for oneself goods or services, including medical services, that are necessary to avoid physical harm, mental anguish, or mental illness; or failure of a caregiver to provide these goods or services.

(51) NFPA--The National Fire Protection Association. The NFPA is an organization that develops codes, standards, recommended practices, and guides through a consensus standards development process approved by the American National Standards Institute.

(52) NFPA 10--Standard for Portable Fire Extinguishers. A standard developed by the NFPA for selection, installation, inspection, maintenance, and testing of portable fire extinguishing equipment.

(53) NFPA 13--Standard for the Installation of Sprinkler Systems. A standard developed by the NFPA for the minimum requirements for design and installation of automatic fire sprinkler systems, including the character and adequacy of water supplies and selection of sprinklers, fittings, pipes, valves, and all maintenance and accessories.

(54) NFPA 70--National Electrical Code. A code developed by the NFPA for installation of electric conductors and equipment.

(55) NFPA 72--National Fire Alarm Code. A code developed by the NFPA for application, installation, performance, and maintenance of fire alarm systems and their components.

(56) NFPA 90A--Standard for the Installation of Air Conditioning and Ventilating Systems. A standard developed by the NFPA for systems for the movement of environmental air in structures that serve spaces over 25,000 cubic feet or buildings of certain heights and construction types, or both.

(57) NFPA 90B--Standard for the Installation of Warm Air Heating and Air-Conditioning Systems. A standard developed by the NFPA for systems for movement of environmental air in one- or two-family dwellings and structures that serve spaces not exceeding 25,000 cubic feet.

(58) NFPA 96--Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. A standard developed by the NFPA that provides the minimum fire safety requirements related to design, installation, operation, inspection, and maintenance of all public and private cooking operations, except for single-family residential usage.

(59) Nurse--An RN or LVN licensed in the state of Texas.

(60) Nursing services--Services provided by a nurse, including:

- (A) observation;
- (B) promoting and maintaining health;
- (C) preventing illness and disability;
- (D) managing health care during acute and chronic phases of illness;
- (E) guiding and counseling individuals and families; and

(F) referral to physicians, other health care providers, and community resources when appropriate.

(61) Online portal--A secure portal provided on the HHSC website for licensure activities, including for a DAHS facility applicant to submit licensure applications and information.

(62) Pattern of violation--Repeated, but not widespread in scope, failures of a facility to comply with Texas Human Resources Code, Chapter 103, or a rule, standard, or order adopted under Texas Human Resources Code, Chapter 103 that:

(A) result in a violation; and

(B) are found throughout the services provided by the facility or that affect or involve the same elderly persons or persons with disabilities receiving services at the facility or the same facility employees.

(63) Person--An individual, corporation, or association.

(64) Person with a disability--A person whose functioning is sufficiently impaired to require frequent medical attention, counseling, physical therapy, therapeutic or corrective equipment, or another person's attendance and supervision.

(65) Plan of care--A written plan, based on a health assessment and developed jointly by a facility and an individual or the individual's responsible party, that documents the functional impairment of the individual and the DAHS needed by the individual.

(66) Potential for minimal harm--A violation that has the potential for causing no more than a minor negative impact to an individual.

(67) Protective setting--A setting in which an individual's safety is ensured by the physical environment by staff.

(68) Related support services--Services to an individual, family member, or caregiver that may improve the person's ability to assist with an individual's independence and functioning. Services include:

(A) information and referral;

(B) transportation;

(C) teaching caregiver skills;

(D) respite;

(E) counseling;

(F) instruction and training; and

(G) support groups.

(69) Responsible party--A person designated by an individual as the individual's representative.

(70) RN--Registered nurse. A person licensed by the Texas Board of Nursing to practice professional nursing.

(71) Safety--Protection from injury or loss of life due to conditions such as fire, electrical hazard, unsafe building or site conditions, and presence of hazardous materials.

(72) Sanitation--Protection from illness, transmission of disease, or loss of life due to unclean surroundings, the presence of disease transmitting insects or rodents, unhealthful conditions or practices in preparation of food and beverage, or care of personal belongings.

(73) Semi-ambulatory--Mobility relying on a walker, crutch, cane, or other physical object, or independent use of wheelchair.

(74) Serious injury--An injury requiring emergency medical intervention or treatment by medical personnel, either at a facility or at an emergency room or medical office.

(75) Social activities--Therapeutic, educational, cultural enrichment, recreational, and other activities in a facility or in the community provided as part of a planned program to meet the social needs and interests of an individual.

(76) TAC--Texas Administrative Code.

(77) UL--Underwriters Laboratories, Inc. A corporation whose approval of a product indicates a level of testing and certification that is acceptable to HHSC.

(78) Widespread in scope--A violation of Texas Human Resources Code, Chapter 103, or a rule, standard, or order adopted under Texas Human Resources Code, Chapter 103, that:

(A) is pervasive throughout the services provided by the facility; or

(B) represents a systematic failure by the facility that affects or has the potential to affect a large portion or all the elderly persons or persons with disabilities receiving services at the facility.

(79) Willfully interfere--To act or not act to intentionally prevent, interfere with, or impede.

(80) Working with people--Acts involving delivery of services to individuals either directly or indirectly. Experience as a manager would meet this definition; however, experience in an administrative support position such as a bookkeeper does not. Experience does not have to be in a paid capacity.

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 June 20, 2024.  
TRD-202402715

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



## 26 TAC §559.2

### STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402716

Karen Ray  
Chief Counsel  
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Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
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## SUBCHAPTER B. APPLICATION PROCEDURES

26 TAC §§559.11, 559.13, 559.15, 559.17, 559.19, 559.21, 559.23, 559.25, 559.27, 559.29, 559.31, 559.33, 559.35, 559.37, 559.39

### STATUTORY AUTHORITY

The amendment and new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

Filed with the Office of the Secretary of State on June 20, 2024.

TRD-202402717

Karen Ray  
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Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



## 26 TAC §§559.12 - 559.23

### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402718

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



## SUBCHAPTER D. STANDARDS FOR LICENSURE

26 TAC §§559.50 - 559.53, 559.55, 559.57, 559.59, 559.61, 559.63, 559.65, 559.67, 559.69, 559.71, 559.73, 559.75, 559.77, 559.79

### STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402719

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



**26 TAC §§559.61 - 559.64**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402720  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



**SUBCHAPTER E. INSPECTIONS, SURVEYS,  
AND VISITS**

**26 TAC §§559.81, 559.83, 559.85, 559.87**

**STATUTORY AUTHORITY**

The amendment and new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402721

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



**26 TAC §§559.82 - 559.84**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402722  
Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



**SUBCHAPTER F. ABUSE, NEGLECT, AND  
EXPLOITATION: COMPLAINT AND INCIDENT  
REPORTS AND INVESTIGATIONS**

**26 TAC §§559.91, 559.93, 559.95, 559.97, 559.99**

**STATUTORY AUTHORITY**

The amendment and new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402723

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



## 26 TAC §§559.92 - 559.95

### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402724

Karen Ray  
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Health and Human Services Commission

Effective date: July 10, 2024

Proposal publication date: March 8, 2024

For further information, please call: (512) 438-3161



## SUBCHAPTER G. ENFORCEMENT

### 26 TAC §§559.101, 559.103, 559.105, 559.107

### STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402726

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: July 10, 2024  
Proposal publication date: March 8, 2024  
For further information, please call: (512) 438-3161



## 26 TAC §§559.102 - 559.105

### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Human Resources Code §103.004 and §103.005, which respectively provide that the Executive Commissioner of HHSC shall adopt rules for implementing Texas Human Resources Code, Chapter 103, and adopt rules for licensing and setting standards for facilities licensed under Texas Human Resources Code, Chapter 103.

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 June 20, 2024.

TRD-202402725

Karen Ray  
Chief Counsel

Health and Human Services Commission

Effective date: July 10, 2024

Proposal publication date: March 8, 2024

For further information, please call: (512) 438-3161



## CHAPTER 744. MINIMUM STANDARDS FOR SCHOOL-AGE AND BEFORE OR AFTER-SCHOOL PROGRAMS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §744.901, concerning What information must I maintain in my personnel records, and §744.1103, concerning What minimum qualifications must each of my employees meet.

The amendments to §744.901 and §744.1103 are adopted without changes to the proposed text as published in the March 15, 2024, issue of the *Texas Register* (49 TexReg 1691). These rules will not be republished.

### BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Human Resources Code (HRC) §42.0563, added by Senate Bill (S.B.) 1469, 88th Legislature, Regular Session, 2023. HRC §42.0563 requires an applicant for a position at a child-care facility to complete and submit an affidavit on a form developed by HHSC through which the applicant discloses (1) whether the applicant has a charge, adjudication, or conviction related to having an inappropriate relationship with a minor; (2) all relevant facts pertaining to any charge, adjudication, or conviction disclosed; and (3) if the disclosure is related to a charge, whether the charge



was determined to be true or false. If the applicant discloses a charge, the child-care facility may employ the applicant if the facility determines that the charge was false based on the information disclosed in the affidavit.

#### COMMENTS

The 31-day comment period ended April 15, 2024. During this period, HHSC did not receive any comments regarding the proposed rules.

### SUBCHAPTER C. RECORD KEEPING DIVISION 4. PERSONNEL RECORDS

#### 26 TAC §744.901

##### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402704

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269



### SUBCHAPTER D. PERSONNEL DIVISION 2. EMPLOYEES AND CAREGIVERS

#### 26 TAC §744.1103

##### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402705

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269



### CHAPTER 745. LICENSING SUBCHAPTER D. APPLICATION PROCESS DIVISION 3. SUBMITTING THE APPLICATION MATERIALS

#### 26 TAC §745.243

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §745.243, concerning What does a completed application for a permit include.

The amendment to §745.243 is adopted without changes to the proposed text as published in the March 15, 2024, issue of the *Texas Register* (49 TexReg 1694). This rule will not be republished.

##### BACKGROUND AND JUSTIFICATION

The amendment is necessary to amend an existing rule in Chapter 745 to delete a reference to a "notarized Affidavit for Applicants for Employment with a Licensed Operation or Registered Child-Care Home" in the list of required application materials for a registered child-care home. The deletion aligns the rule with Texas Human Resources Code (HRC) §42.059, which requires the affidavit for prospective employees, but does not require it with the application.

##### COMMENTS

The 31-day comment period ended April 15, 2024. During this period, HHSC did not receive any comments regarding the proposed rules.

##### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.059.

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 June 20, 2024.

TRD-202402708

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269

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## CHAPTER 746. MINIMUM STANDARDS FOR CHILD-CARE CENTERS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §746.901, concerning What information must I maintain in my personnel records, and §746.1105, concerning What minimum qualifications must each of my child-care center employees meet.

The amendments to §746.901 and §746.1105 are adopted without changes to the proposed text as published in the March 15, 2024, issue of the *Texas Register* (49 TexReg 1695). These rules will not be republished.

### BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Human Resources Code (HRC) §42.0563, added by Senate Bill (S.B.) 1469, 88th Legislature, Regular Session, 2023. HRC §42.0563 requires an applicant for a position at a child-care facility to complete and submit an affidavit on a form developed by HHSC through which the applicant discloses (1) whether the applicant has a charge, adjudication, or conviction related to having an inappropriate relationship with a minor; (2) all relevant facts pertaining to any charge, adjudication, or conviction disclosed; and (3) if the disclosure is related to a charge, whether the charge was determined to be true or false. If the applicant discloses a charge, the child-care facility may employ the applicant if the facility determines that the charge was false based on the information disclosed in the affidavit.

### COMMENTS

The 31-day comment period ended April 15, 2024.

During this period, HHSC received comments regarding the proposed rules from three commenters representing child-care centers. A summary of the comments relating to the rules and HHSC responses follows.

**Comment:** One commenter said that they did not understand the rule proposals.

**Response:** HHSC disagrees with the comment's implication that the rule language is not clear and declines to revise the rules. HHSC notified providers of the statutory requirements by email before the law took effect and will send additional information to providers on complying with the rule changes once adopted.

**Comment:** One commenter said that the rule proposals will add to the workloads of those working in child care.

**Response:** HHSC disagrees with the comment and declines to revise the rules. While the statutorily required affidavit constitutes additional paperwork to complete for new employees and others who will perform employee functions, the affidavit easily aligns with the current background check process.

**Comment:** One commenter expressed support for the rule proposals.

**Response:** HHSC appreciates the support for the rules.

## SUBCHAPTER C. RECORD KEEPING DIVISION 4. PERSONNEL RECORDS

### 26 TAC §746.901

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402709

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269

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## SUBCHAPTER D. PERSONNEL DIVISION 2. CHILD-CARE CENTER EMPLOYEES AND CAREGIVERS

### 26 TAC §746.1105

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402710

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269

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## CHAPTER 747. MINIMUM STANDARDS FOR CHILD-CARE HOMES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §747.901, concerning What information must I maintain in my personnel records, and §747.1207, con-

cerning What minimum qualifications must an assistant caregiver meet.

The amendments to §747.901 and §747.1207 are adopted without changes to the proposed text as published in the March 15, 2024, issue of the *Texas Register* (49 TexReg 1697). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Human Resources Code (HRC) §42.0563, added by Senate Bill (S.B.) 1469, 88th Legislature, Regular Session, 2023. HRC §42.0563 requires an applicant for a position at a child-care facility to complete and submit an affidavit on a form developed by HHSC through which the applicant discloses (1) whether the applicant has a charge, adjudication, or conviction related to having an inappropriate relationship with a minor; (2) all relevant facts pertaining to any charge, adjudication, or conviction disclosed; and (3) if the disclosure is related to a charge, whether the charge was determined to be true or false. If the applicant discloses a charge, the child-care facility may employ the applicant if the facility determines that the charge was false based on the information disclosed in the affidavit.

#### COMMENTS

The 31-day comment period ended April 15, 2024.

During this period, HHSC received comments regarding the proposed rules from two commenters, including one licensed child-care home and one registered child-care home. A summary of the comments relating to the rules and HHSC responses follows.

Comment: One commenter said that they did not understand the rule proposals.

Response: HHSC disagrees with the comment's implication that the rule language is not clear and declines to revise the rules. HHSC notified providers of the statutory requirements by email before the law took effect and will send additional information to providers on complying with the rule changes once adopted.

Comment: One commenter said that the rule proposals will add to the workloads of those working in child care and cause a hardship on child-care operations.

Response: HHSC disagrees with the comment and declines to revise the rules. While the statutorily required affidavit constitutes additional paperwork to complete for new employees and others who will perform employee functions, the affidavit easily aligns with the current background check process.

#### SUBCHAPTER C. RECORD KEEPING DIVISION 4. RECORDS ON CAREGIVERS AND HOUSEHOLD MEMBERS

##### 26 TAC §747.901

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402711

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269



#### SUBCHAPTER D. PERSONNEL DIVISION 3. ASSISTANT CAREGIVERS AND SUBSTITUTE CAREGIVERS

##### 26 TAC §747.1207

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402712

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2024

Proposal publication date: March 15, 2024

For further information, please call: (512) 438-3269



#### CHAPTER 748. MINIMUM STANDARDS FOR GENERAL RESIDENTIAL OPERATIONS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §748.363, concerning What information must the personnel record of an employee include, and §748.505, concerning What minimum qualifications must all employees meet.

The amendments to §748.363 and §748.505 are adopted without changes to the proposed text as published in the March 15, 2024, issue of the *Texas Register* (49 TexReg 1699). These rules will not be republished.

#### BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Human Resources Code (HRC) §42.0563, added by Senate Bill (S.B.)

1469, 88th Legislature, Regular Session, 2023. HRC §42.0563 requires an applicant for a position at a child-care facility to complete and submit an affidavit on a form developed by HHSC through which the applicant discloses (1) whether the applicant has a charge, adjudication, or conviction related to having an inappropriate relationship with a minor; (2) all relevant facts pertaining to any charge, adjudication, or conviction disclosed; and (3) if the disclosure is related to a charge, whether the charge was determined to be true or false. If the applicant discloses a charge, the child-care facility may employ the applicant if the facility determines that the charge was false based on the information disclosed in the affidavit.

#### COMMENTS

The 31-day comment period ended April 15, 2024.

During this period, HHSC received one comment regarding the proposed rules from one commenter representing the Texas Alliance of Child and Family Services. A summary of the comment relating to the rules and HHSC response follows.

Comment: One commenter recommended a single affidavit to encompass the requirements of HRC §42.0563 and §42.059. The commenter said an additional form represents a separate administrative burden to providers and the potential for an additional citation.

Response: HHSC disagrees with the comment and declines to revise the rules. Each affidavit is statutorily required by a different section of the HRC. Each section requires its own affidavit. HRC §42.0563(a) requires HHSC to adopt the related form with no notarization requirement, while HRC §42.059 does require notarization and requires HHSC to include specific language in the related form. Moreover, the completion of both affidavits only pertains to one residential child-care operation type: general residential operations, not child-placing agencies. If the two affidavits were combined into one, some prospective employees for a child-placing agency may mistakenly complete the portion relating to HRC §42.0563, which is not required for those persons. Therefore, two separate affidavits will continue to be utilized to avoid confusion and comply with statutory requirements.

### SUBCHAPTER D. REPORTS AND RECORD KEEPING

#### DIVISION 3. PERSONNEL RECORDS

##### 26 TAC §748.363

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402713

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 14, 2024  
Proposal publication date: March 15, 2024  
For further information, please call: (512) 438-3269

### SUBCHAPTER E. PERSONNEL DIVISION 1. GENERAL REQUIREMENTS

##### 26 TAC §748.505

#### 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 §531.02011, which transferred the regulatory functions of the Texas Department of Family and Protective Services to HHSC. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of HRC Chapter 42, including HRC §42.0563.

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 June 20, 2024.

TRD-202402714

Karen Ray  
Chief Counsel  
Health and Human Services Commission  
Effective date: August 14, 2024  
Proposal publication date: March 15, 2024  
For further information, please call: (512) 438-3269

### TITLE 28. INSURANCE

#### PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

##### CHAPTER 102. PRACTICES AND PROCEDURES--GENERAL PROVISIONS

##### 28 TAC §102.2

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §102.2, concerning gifts, grants, and donations. The amendments are adopted without changes to the proposed text published in the May 17, 2024, issue of the *Texas Register* (49 TexReg 3483). The rule will not be republished.

REASONED JUSTIFICATION. The amendments update the language in §102.2 and remove obsolete provisions. Amending §102.2 is necessary to reflect the current agency structure to ensure that the rule is clear and accurate. Texas Labor Code §402.062 permits DWC to accept gifts, grants, or donations as provided by DWC rules. The amendments also explain DWC's

process for providing notice of gifts, grants, and donations, and include nonsubstantive editorial and formatting changes that make updates for plain language and agency style to improve the rule's clarity.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received one written comment and no oral comments. The Office of Injured Employee Counsel (OIEC) commented in support of the proposal. Nobody commented against the proposal or suggested changes to it.

Comment on §102.2. OIEC supported DWC's amendments regarding posting gifts, grants, or donations of \$500 or more on its website for five years.

Agency Response to Comment on §102.2. DWC appreciates the comment.

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to §102.2 under Labor Code §§402.062, 402.00111, 402.00116, and 402.061.

Labor Code §402.062 permits DWC to accept gifts, grants, or donations as provided by DWC rules.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

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 June 21, 2024.

TRD-202402741

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: July 11, 2024

Proposal publication date: May 17, 2024

For further information, please call: (512) 804-4703



## CHAPTER 147. DISPUTE RESOLUTION- -AGREEMENTS, SETTLEMENTS, COMMUTATIONS

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts new 28 TAC §147.1; amended §§147.4, 147.5, 147.7, 147.10, and 147.11; and the repeals of §§147.1 - 147.3, 147.6, 147.8, and 147.9, concerning agreements, settlements, and commutations in the dispute resolution process.

New §147.1; amended §§147.4, 147.5, 147.7, 147.10, and 147.11; and the repeals of §§147.1 - 147.3, 147.6, 147.8, and 147.9 are adopted without changes to the proposed text

published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2165) and will not be republished.

REASONED JUSTIFICATION. The amendments and repeals condense some sections into others, so the chapter is more organized and easier to navigate; remove some sections and subsections that are outdated and unnecessary; update citations; remove obsolete references; and make plain language updates and agency style editorial changes. The amendments and repeals also remove references to penalties specific to certain violations of agreements and settlements since penalties are addressed in Texas Labor Code Chapter 415 and 28 TAC Chapter 180.

The amended sections, new section, and repeals are necessary to organize the chapter and remove unnecessary rules to update and streamline the dispute resolution process. Some sections were deleted because they repeat the Labor Code or existing rules, or require DWC to perform actions that are unnecessary and not required by statute.

Section 147.1 provides a statutory reference to definitions in the dispute resolution process. The repeal of §147.1 removes the reference to the definitions within the section, which are "agreement" and "settlement" because these definitions exist in Labor Code §401.011. Sections 147.2 and 147.3 move into new §147.1, which replaces the repealed text, to better organize the chapter. Also, §147.1 is renamed to better reflect its purpose.

Section 147.2 provides that agreements and settlements must be on a form prescribed by DWC and specifies which forms to use. DWC has repealed §147.2 and moved former §147.2(a), which requires that an agreement or settlement of the dispute resolution process be on a form prescribed by DWC, to §147.1 to better organize the chapter. Subsections 147.2(b) and 147.2(c), which specify certain DWC forms to use, have been repealed because our website contains these forms, and the website is easy to navigate.

Section 147.3 concerned the execution of agreements and settlements in the dispute resolution process. The existing subsections under §147.3 moved to new §147.1 to better organize the rule, and §147.3 has been repealed.

Section 147.4 concerns filing agreements and effective dates in the dispute resolution process. The amendments remove certain procedures for DWC staff that are not required by statute and do not contribute to the purpose of filing agreements. The amendments also remove §147.4(e), which refers to possible penalties imposed if a breach of an agreement occurs, because Labor Code Chapter 415 and 28 TAC Chapter 180 address these penalties. The amendments also rename §147.4 to better reflect its purpose.

Section 147.5 concerns settlements in the dispute resolution process, including settlement requirements, effective dates, and procedures for informal settlement conferences. The amendments remove subsections 147.5(b), (c), (d), (e), and (g). Those provisions are more appropriate for internal procedures than a rule. Removing them updates and streamlines the settlement process. Subsection 147.5(h) is removed because it exists in Labor Code §408.005(f). Subsection 147.9(c) regarding settlements moved to new subsection 147.5(c). The amendments also rename §147.5 to better reflect its purpose.

Section 147.6 provided that DWC may reject a settlement by an unrepresented employee pending an informal conference. DWC has repealed §147.6 because it is obsolete. Settlements under

old law are now covered under Chapter 56 of this title (relating to Structured Compromised Settlement Agreements).

Section 147.7 concerns the effect of previously entered decisions and orders on agreements and settlements in the dispute resolution process. The amendments rename §147.7 to better reflect its purpose.

Section 147.8 provided the circumstances under which a party can withdraw from a settlement. Section 147.8 has been repealed because it repeats Labor Code subsection 408.005(h).

Section 147.9 concerned the requirements for agreements and settlements in the dispute resolution process. Repealing §147.9 removed subsections (a) and (b) because they repeat the statute. Subsection 147.9(c), regarding settlements, has been moved to subsection 147.5(c) to better organize the rule.

Section 147.10 concerns the commutation of impairment income benefits. The amendments to §147.10 remove subsection (a) because it exists in Labor Code §408.128. Subsection (c) is removed because the DWC form already provides a warning to the employee that commutation terminates the employee's entitlement to additional income benefits, and it exists in Labor Code §408.128. Subsection (d) is removed because it is unnecessary. Subsection (d) states that the employee may contact DWC to get or verify the information required to be included in a request to commute impairment benefits. Employees may contact DWC to get or verify this information without a rule stating so. Therefore, it is unnecessary. The amendments also rename the section to better reflect its purpose.

Section 147.11 concerns notifications to DWC of proposed judgments and settlements within the dispute resolution process. The amendments to §147.11 update the language in subsection (b) and remove subsections (a) and (c) because they exist in Labor Code §410.258. The amendments also remove subsection (d) regarding penalties because Labor Code Chapter 415 and 28 TAC Chapter 180 address these penalties.

In addition, the adopted amendments to Chapter 147 include nonsubstantive editorial and formatting changes to conform the sections to the agency's current style and improve the rule's clarity.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received two written comments, and no oral comments. Commenters in support of the proposal were: Office of Injured Employee Counsel (OIEC) and Liberty Mutual. DWC did not receive comments against the proposal.

Comment on Chapter 147. OIEC commented that they support the proposed amendments.

Agency Response to Comment on Chapter 147. DWC appreciates the comment.

Comment on Chapter 147. Liberty Mutual commented that the changes to the rule are good, making the chapter clearer and should help all parties better understand the process.

Agency Response to Comment on Chapter 147. DWC appreciates the comment.

#### 28 TAC §§147.1 - 147.3, 147.6, 147.8, 147.9

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the repeals of 28 TAC §§147.1 - 147.3, 147.6, 147.8, and 147.9 under Labor Code §§401.011, 408.005,

410.029, 410.030, 410.258, 402.00111, 402.00116, and 402.061.

Labor Code §401.011 provides definitions used in workers' compensation.

Labor Code §408.005 concerns the timing, approval, and withdrawal of a settlement in the dispute resolution process.

Labor Code §410.029 provides that a dispute may be resolved either in whole or in part at a benefit review conference. If the conference results in the resolution of some disputed issues by agreement or in a settlement, the benefit review officer must reduce the agreement or the settlement to writing. The benefit review officer and each party or the designated representative of the party must sign the agreement or settlement. Section 410.029 also provides that a settlement takes effect on the date it is approved by DWC in accordance with Labor Code §408.005.

Labor Code §410.030 provides that an agreement signed in accordance with Labor Code §410.029 is binding on the insurance carrier through the conclusion of all matters relating to the claim, unless DWC or a court, on a finding of fraud, newly discovered evidence, or other good and sufficient cause, relieves the insurance carrier of the effect of the agreement. The agreement is binding on the claimant, if represented by an attorney, to the same extent as on the insurance carrier.

Labor Code §410.258 provides that a party must file any proposed judgment or settlement, including a proposed default judgment or proposed agreed judgment, with the division not later than the 30th day before the date on which the court is scheduled to enter the judgment or approve the settlement.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

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 June 18, 2024.

TRD-202402677

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: July 8, 2024

Proposal publication date: April 5, 2024

For further information, please call: (512) 804-4703



#### 28 TAC §§147.1, 147.4, 147.5, 147.7, 147.10, 147.11

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts new 28 TAC §147.1 and amendments to §§147.4, 147.5, 147.7, 147.10, and 147.11 under Labor Code §§408.005, 408.128, 410.029, 410.030, 410.258, 402.00111, 402.00116, and 402.061.

Labor Code §408.005 concerns the timing, approval, and withdrawal of a settlement in the dispute resolution process.

Labor Code §408.128 provides that an employee may elect to commute the remainder of the impairment income benefits to which the employee is entitled if the employee has returned to work for at least three months, earning at least 80% of the employee's average weekly wage. An employee who elects to commute impairment income benefits is not entitled to additional income benefits for the compensable injury.

Labor Code §410.029 provides that a dispute may be resolved either in whole or in part at a benefit review conference. If the conference results in the resolution of some disputed issues by agreement or in a settlement, the benefit review officer must reduce the agreement or the settlement to writing. The benefit review officer and each party or the designated representative of the party must sign the agreement or settlement. Section 410.029 also provides that a settlement takes effect on the date it is approved by DWC in accordance with Labor Code §408.005.

Labor Code §410.030 provides that an agreement signed in accordance with Labor Code §410.029 is binding on the insurance carrier through the conclusion of all matters relating to the claim, unless DWC or a court, on a finding of fraud, newly discovered evidence, or other good and sufficient cause, relieves the insurance carrier of the effect of the agreement. The agreement is binding on the claimant, if represented by an attorney, to the same extent as on the insurance carrier.

Labor Code §410.258 provides that a party must file any proposed judgment or settlement, including a proposed default judgment

or proposed agreed judgment, with the division not later than the 30th day before the date on which the court is scheduled to enter the judgment or approve the settlement.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

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 June 18, 2024.

TRD-202402678

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Texas Department of Insurance, Division of Workers' Compensation

Effective date: July 8, 2024

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For further information, please call: (512) 804-4703







# TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

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## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 3, Responsibilities of State Facilities, Subchapters A through C are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 926, State Facility Requirements to Enhance the Safety of Individuals Receiving Services, Subchapters B and C.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 3, Subchapters A - C

TRD-202402766

## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 3, Responsibilities of State Facilities, Subchapters A through C are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 926, State Facility Requirements to Enhance the Safety of Individuals Receiving Services, Subchapters B and C.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 3, Subchapters A - C

TRD-202402767

Figure: 40 TAC Chapter 3, Subchapters A - C

<p><b>As a result of the transfer of the 40 TAC 3, Subchapters A, B, and C, the existing rules in Title 26, Chapter 926 will be included in Subchapter A, Training Requirements for State Facility Staff, as follows.</b></p>	
<p><b>Current Rules</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 926. Training for Facility Staff</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Texas Health and Human Services Commission</b>  <b>Chapter 926. State Facility Requirements to Enhance the Safety of Individuals Receiving Services</b></p>
	<p><b>Subchapter A. Training Requirements for State Facility Staff</b></p>
§926.1. Application.	§926.1. Application.
§926.2. Definitions.	§926.2. Definitions.
§926.3. Training for New Employees.	§926.3. Training for New Employees.
§926.4. Additional Training for Employees Who Provide Direct Care to Individuals.	§926.4. Additional Training for Employees Who Provide Direct Care to Individuals.
§926.5. State Hospital Refresher Training.	§926.5. State Hospital Refresher Training.
§926.6. State Supported Living Center (SSLC) Refresher Training.	§926.6. State Supported Living Center Refresher Training.
<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 3. Responsibilities of State Facilities</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 926. State Facility Requirements to Enhance the Safety of Individuals Receiving Services</b></p>
<p><b>Subchapter A. Definitions</b></p>	<p><b>Subchapter B. Criminal History Checks And Registry Clearances at State Facilities</b></p>
§3.101. Definitions.	§926.51. Definitions.
<p><b>Subchapter B. Criminal History Checks And Registry Clearances</b></p>	<p><b>Subchapter B. Criminal History Checks And Registry Clearances at State Facilities</b></p>
§3.201. Pre-employment or Pre-assignment Checks and Clearances.	§926.53. Pre-employment or Pre-assignment Checks and Clearances.
§3.202. Emergency Employment Pending Criminal History Check.	§926.55. Emergency Employment Pending Criminal History Check.
§3.203. Notification to Applicants.	§926.57. Notification to Applicants.
§3.204. Self-Reporting and Subsequent Criminal History Checks and Registry Clearances.	§926.61. Self-Reporting and Subsequent Criminal History Checks and Registry Clearances.
§3.205. Unpaid Professional Interns.	§926.63. Unpaid Professional Interns.
<p><b>Subchapter C. Abuse, Neglect, And Exploitation</b></p>	<p><b>Subchapter C. Abuse, Neglect, And Exploitation at State Facilities</b></p>
§3.301. Prohibition of Abuse, Neglect, and Exploitation.	§926.103. Prohibition of Abuse, Neglect, and Exploitation.

§3.302. Reporting Abuse, Neglect, and Exploitation to DFPS.	§926.105. Reporting Abuse, Neglect, and Exploitation.
§3.303. Prohibition Against Retaliation.	§926.107. Prohibition Against Retaliation.
§3.304. During an Investigation.	§926.109. During an Investigation.
§3.305. Completion of an Investigation.	§926.111. Completion of an Investigation.
§3.306. Contractors.	§910.113. Contractors.

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 3, Responsibilities of State Facilities, Subchapters F and H are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 967, Client Care of Individuals Receiving Services at State Supported Living Centers, Subchapters B and C.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 3, Subchapters F and H

TRD-202402770

## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 3, Responsibilities of State Facilities, Subchapters F and H are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 967, Client Care of Individuals Receiving Services at State Supported Living Centers, Subchapters B and C.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 3, Subchapters F and H

TRD-202402771

Figure: 40 TAC Chapter 3, Subchapters F and H

<p><b>As a result of the transfer of the 40 TAC 3, Subchapters F and H, the existing rule in Title 26, Chapter 967 will be included in Subchapter A, State Supported Living Center Independent Mortality Review, as follows.</b></p>	
<p><b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 967. State Supported Living Center Independent Mortality Review</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 967. Client Care of Individuals Receiving Services at State Supported Living Centers</b></p>
	<p><b>Subchapter A. State Supported Living Center Independent Mortality Review</b></p>
§967.1. Independent Mortality Review.	§967.1. Independent Mortality Review.
<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 3. Responsibilities of State Facilities</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 967. Client Care of Individuals Receiving Services at State Supported Living Centers</b></p>
<p><b>Subchapter F. Restraints</b></p>	<p><b>Subchapter B. Use of Restraints in State Supported Living Centers</b></p>
§3.601. General Provisions.	§967.27. General Provisions.
§3.602. Mechanical Devices.	§967.29. Mechanical Devices.
§3.603. Evaluation and Assessment.	§967.31. Evaluation and Assessment.
§3.604. Imminent Harm Resulting from a Behavioral Crisis.	§967.33. Imminent Harm Resulting from a Behavioral Crisis.
§3.605. Imminent Harm Resulting from a Medical or Dental Procedure.	§967.35. Imminent Harm Resulting from a Medical or Dental Procedure.
§3.606. Imminent Harm Resulting from Documented Self-Injurious Behavior.	§967.37. Imminent Harm Resulting from Documented Self-Injurious Behavior.
§3.607. Release.	§967.39. Release.
§3.608. Reporting, Tracking, and Documentation.	§965.41. Reporting, Tracking, and Documentation.
<p><b>Subchapter H. Consent Or Authorization For Administration Of Psychotropic Medication</b></p>	<p><b>Subchapter C. Consent Or Authorization For The Administration Of Psychotropic Medication At State Supported Living Centers</b></p>
§3.801. Legally Adequate Consent or Authorization for Non-Emergency Administration of Psychotropic Medication.	§967.77. Legally Adequate Consent or Authorization for Non-Emergency Administration of Psychotropic Medication.
§3.802. Administration of Psychotropic Medication during a Medication-Related Emergency.	§967.79. Administration of Psychotropic Medication during a Medication-Related Emergency.

§3.803. Refusal of Psychotropic Medication.	§967.81. Refusal of Psychotropic Medication.
§3.804. Order Authorizing Administration of Psychotropic Medication.	§967.83. Order Authorizing Administration of Psychotropic Medication.
§3.805. Effect of Order.	§967.85. Effect of Order.

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rules in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 7, DADS Administrative Responsibilities, Subchapter A, Standard Operating Procedures are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 910, State Facility Business Operations and Chapter 930, Additional Rights of Individuals Receiving Services at State Facilities, Subchapter B, Personal Property of an Individual Receiving Services at a State Facility.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 7, Subchapter A

TRD-202402764

## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rules in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 7, DADS Administrative Responsibilities, Subchapter A, Standard Operating Procedures are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 910, State Facility Business Operations and Chapter 930, Additional Rights of Individuals Receiving Services at State Facilities, Subchapter B, Personal Property of an Individual Receiving Services at a State Facility.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 7, Subchapter A

TRD-202402765

Figure: 40 TAC Chapter 7, Subchapter A

<p><b>As a result of the transfer of the 40 TAC 7, Subchapter A, the existing rules in Title 26, Chapter 910 will be included in Subchapter A, Charges for Services in State Facilities, as follows.</b></p>	
<p><b>Current Rules</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 910. Charges for Services in State Facilities</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 910. State Facility Business Operations</b></p>
	<p><b>Subchapter A. Charges for Services in State Facilities</b></p>
§910.1. Purpose.	§910.1. Purpose.
§910.2. Application.	§910.2. Application.
§910.3. Definitions.	§910.3. Definitions.
§910.4. Fee Assessment and Notification of Charges.	§910.4. Fee Assessment and Notification of Charges.
§910.5. State Hospital Accruing Charges.	§910.5. State Hospital Accruing Charges.
§910.6. State Supported Living Center Accruing Charges.	§910.6. State Supported Living Center Accruing Charges.
§910.7. Rate Review Process at State Hospitals.	§910.7. Rate Review Process at State Hospitals.
§910.8. Appeal Process.	§910.8. Appeal Process.
§910.9. Filing Notice of Lien.	§910.9. Filing Notice of Lien.
§910.10. Taxable Income of the Parents.	§910.10. Taxable Income of the Parents.
<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 7. DADS Administrative Responsibilities</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 910. State Facility Business Operations</b></p>
<p><b>Subchapter A. Standard Operating Procedures</b></p>	<p><b>Subchapter B. State Facility Financial Responsibilities</b></p>
§7.3. Definitions.	§910.51. Definitions.
§7.27. Depositing Department Funds.	§910.53. Depositing Department Funds.
§7.28. Investing Department Funds.	§910.55. Investing Department Funds.
§7.29. Benefit Funds: Use and Control.	§910.57. Benefit Funds: Use and Control.
<p><b>Subchapter A. Standard Operating Procedures</b></p>	<p><b>Subchapter C. State Facility Property</b></p>
§7.7. Inscription on State Vehicles.	§910.103. Inscription on State Facility Vehicles.
§7.14. Non-Commercial Groups.	§910.105. Non-Commercial Groups at a State Facility.
§7.15. Family Members and Guests of an Individual Receiving Services.	§910.107. Overnight Accommodations for Guests of an Individual Receiving Services at a State Facility.

<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 7. DADS Administrative Responsibilities</b>  <b>Subchapter A. Standard Operating Procedures</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 930. Additional Rights of Individuals Receiving Services at State Facilities</b>  <b>Subchapter B. Personal Property of an Individual Receiving Services at a State Facility</b></p>
<p>§7.38. Individual's Personal Property.</p>	<p>§930.53. Individual's Personal Property.</p>

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rules in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 7, DADS Administrative Responsibilities, Subchapter D, Permanent Improvements Donated by Individuals or Community Groups are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 901 Volunteer and Community Engagement at a State Facility, Subchapter C, Donating Permanent Improvements to a State Facility.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 7, Subchapter D

TRD-202402762

## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rules in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 7, DADS Administrative Responsibilities, Subchapter D, Permanent Improvements Donated by Individuals or Community Groups are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 901 Volunteer and Community Engagement at a State Facility, Subchapter C, Donating Permanent Improvements to a State Facility.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 7, Subchapter D

TRD-202402763

Figure: 40 TAC Chapter 7, Subchapter D

<p><b>As a result of the transfer of the 40 TAC 7, Subchapter D, the existing rules in Title 26, Chapter 901 will be included in Subchapter A, Volunteer and Community Engagement, as follows.</b></p>	
<p><b>Current Rules</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 901. Volunteer and Community Engagement</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 901. Volunteer and Community Engagement at a State Facility</b></p>
	<p><b>Subchapter A. Volunteer and Community Engagement</b></p>
§901.1. Application.	§901.1. Application.
§901.2. Definitions.	§901.2. Definitions.
§901.3. Limitations on Donations.	§901.3. Limitations on Donations.
§901.4. Volunteer Services Councils.	§901.4. Volunteer Services Councils.
<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 7. DADS Administrative Responsibilities</b>  <b>Subchapter D. Permanent Improvements Donated by Individuals or Community Groups</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services</b>  <b>Commission</b>  <b>Chapter 901. Volunteer and Community Engagement at a State Facility</b>  <b>Subchapter C. Donating Permanent Improvements to a State Facility</b></p>
§7.151. Purpose.	§901.100. Purpose.
§7.152. Application.	§901.102. Application.
§7.153. Definitions.	§901.104. Definitions.
§7.154. Permanent Improvement Process.	§901.106. Permanent Improvement Process.
§7.155. Permanent Improvement Approval.	§901.108. Permanent Improvement Approval.
§7.156. Responsibilities of the VSC Board, VSC Chair, and PI Committee.	§901.110. Responsibilities of the Volunteer Services Councils (VSCs) Board, VSC Chair, and Permanent Improvement Committee.
§7.157. Dedicated Construction Account Requirements.	§901.112. Dedicated Construction Account Requirements.
§7.158. Accepting an Improvement.	§901.114. Accepting an Improvement.

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### Department of Aging and Disability Services

#### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b),

specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 40, Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 285, Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program.



The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 40

TRD-202402758



## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b),

Figure: 40 TAC Chapter 40

<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 40. Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 285. Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program</b></p>
<p>§40.1. Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program.</p>	<p>§285.1. Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program.</p>

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 60, Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE) are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 270, Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE).

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 60

TRD-202402774

specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 40, Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 285, Use of General Revenue for Services Exceeding the Individual Cost Limit of a Waiver Program.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 40

TRD-202402759

## Texas Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 60, Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE) are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 270, Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE).

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 60

TRD-202402775

Figure: 40 TAC Chapter 60

<b>Current Rules</b>	<b>Move to</b>
<b>Title 40. Social Services and Assistance</b>	<b>Title 26. Health and Human Services</b>
<b>Part 1. Department of Aging and Disability Services</b>	<b>Part 1. Health and Human Services Commission</b>
<b>Chapter 60. Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE)</b>	<b>Chapter 270. Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE)</b>
§60.2. Purpose.	§270.2. Purpose.
§60.4. Introduction.	§270.4. Introduction.
§60.6. Definitions.	§270.6. Definitions.
§60.8. Contracting Requirements.	§270.8. Contracting Requirements.
§60.10. Interest List.	§270.10. Interest List.
§60.12. Client Eligibility Criteria.	§270.12. Client Eligibility Criteria.
§60.14. Living Arrangements.	§270.14. Living Arrangements.
§60.16. Medical Necessity Assessments.	§270.16. Medical Necessity Assessments.
§60.18. Program Benefits.	§270.18. Program Benefits.
§60.20. Right to Appeal.	§270.20. Right to Appeal.
§60.22. Medicaid Capitation Payments.	§270.22. Medicaid Capitation Payments.
§60.24. Enrollment and Disenrollment.	§270.24. Enrollment and Disenrollment.
§60.26. Data Collection and Reporting.	§270.26. Data Collection and Reporting.

**Department of Aging and Disability Services**

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 86, National Senior Services Corps Program are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 214, National Senior Services Corps Program.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 86

TRD-202402748

**Texas Health and Human Services Commission**

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 86, National Senior Services Corps Program are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 214, National Senior Services Corps Program.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 86

TRD-202402749

Figure: 40 TAC Chapter 86

<p><b>Current Rules</b>  <b>Title 40. Social Services and Assistance</b>  <b>Part 1. Department of Aging and Disability Services</b>  <b>Chapter 86. National Senior Services Corps Program</b></p>	<p><b>Move to</b>  <b>Title 26. Health and Human Services</b>  <b>Part 1. Health and Human Services Commission</b>  <b>Chapter 214. National Senior Services Corps Program</b></p>
<p>§86.1. Guidelines to Distribute Funds to Entities Operating a National Senior Services Corps Program.</p>	<p>§214.1. Guidelines to Distribute Funds to Entities Operating a National Senior Services Corps Program.</p>

**Department of Aging and Disability Services**

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 98, Day Activity and Health Services Requirements, Subchapter H, Day Activity and Health Services (DAHS) Contractual Requirements are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 211, Day Activity and Health Services (DAHS) Contractual Requirements.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 98, Subchapter H  
 TRD-202402772

**Texas Health and Human Services Commission**

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 98, Day Activity and Health Services Requirements, Subchapter H, Day Activity and Health Services (DAHS) Contractual Requirements are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 211, Day Activity and Health Services (DAHS) Contractual Requirements.

The rules will be transferred in the Texas Administrative Code effective July 31, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 98, Subchapter H  
 TRD-202402773

Figure: 40 TAC Chapter 98, Subchapter H

<b>Current Rules</b> <b>Title 40. Social Services and Assistance</b> <b>Part 1. Department of Aging and Disability Services</b> <b>Chapter 98. Day Activity and Health Services Requirements</b> <b>Subchapter H. Day Activity and Health Services (DAHS) Contractual Requirements</b>	<b>Move to</b> <b>Title 26. Health and Human Services</b> <b>Part 1. Health and Human Services Commission</b> <b>Chapter 211. Day Activity and Health Services (DAHS) Contractual Requirements</b>
§98.200. Applicability.	§211.200. Applicability.
§98.201. Eligibility Requirements for Participation.	§211.201. Eligibility Requirements for Participation.
§98.202. Program Overview.	§211.202. Program Overview.
§98.203. Written Referrals for Services.	§211.203. Written Referrals for Services.
§98.204. DAHS Facility-Initiated Referrals.	§211.204. DAHS Facility-Initiated Referrals.
§98.205. Initiation of Services.	§211.205. Initiation of Services.
§98.206. Program Requirements.	§211.206. Program Requirements.
§98.207. Suspension of Day Activity and Health Services.	§211.207. Suspension of Day Activity and Health Services.
§98.208. Notifications.	§211.208. Notifications.
§98.209. Record Maintenance.	§211.209. Record Maintenance.
§98.210. Financial Errors.	§211.210. Financial Errors.
§98.211. Billing and Payment.	§211.211. Billing and Payment.
§98.212. Sanctions.	§211.212. Sanctions.



# 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 Health and Human Services Commission

### Title 1, Part 15

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 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 366, Medicaid Eligibility for Women, Children, Youth, and Needy Families

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 re-adopt, re-adopt with amendments, or repeal its rules.

Comments on the review of Chapter 366, Medicaid Eligibility for Women, Children, Youth, and Needy Families, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [AES\\_Policy\\_Coordination@hhs.texas.gov](mailto:AES_Policy_Coordination@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 366" 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 1, Part 15, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202402768

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 24, 2024



Office of the Governor, Economic Development and Tourism Office

### Title 10, Part 5

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 184, concerning the Sports and Events Trust Fund. The review is being conducted in accordance with §2001.039 of the Texas Government Code.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to re-adopt, re-adopt with amendments, or repeal the rule.

Comments may be submitted to Gene Cervenka, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78701, or by email to [eventsfund@gov.texas.gov](mailto:eventsfund@gov.texas.gov) with the subject line "Events Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on August 4, 2024.

TRD-202402727

Gene Cervenka

Senior Finance Program Specialist

Office of the Governor, Economic Development and Tourism Office

Filed: June 21, 2024



Department of State Health Services

### Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for re-adopt, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 83, Public Health Improvement Grants

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 re-adopt, re-adopt with amendments, or repeal its rules.

Comments on the review of Chapter 83, Public Health Improvement Grants, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [RLHO@dshs.texas.gov](mailto:RLHO@dshs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 83" 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 25, 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](http://www.sos.texas.gov)).

TRD-202402785

Jessica Miller  
Director, Rules Coordination Office  
Department of State Health Services  
Filed: June 25, 2024



The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 95, Prescription Drug Donation Program

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 95, Prescription Drug Donation Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [rxdrugdonation@dshs.texas.gov](mailto:rxdrugdonation@dshs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 95" 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 25, 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](http://www.sos.texas.gov)).

TRD-202402699  
Jessica Miller  
Director, Rules Coordination Office  
Department of State Health Services  
Filed: June 19, 2024



The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 169, Zoonosis Control

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 169, Zoonosis Control, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [The.Vet@dshs.texas.gov](mailto:The.Vet@dshs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 169" 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 25, 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](http://www.sos.texas.gov)).

TRD-202402776  
Jessica Miller  
Director, Rules Coordination Office  
Department of State Health Services  
Filed: June 24, 2024



Texas Health and Human Services Commission

**Title 26, Part 1**

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 358, Children's Autism Program

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 358, Children's Autism Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email [Childrens.Autism.Program@hhs.texas.gov](mailto:Childrens.Autism.Program@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 358" 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](http://www.sos.texas.gov)).

TRD-202402753  
Jessica Miller  
Director, Rules Coordination Office  
Texas Health and Human Services Commission  
Filed: June 21, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 359, Division for Blind 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. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 359, Division for Blind Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHS\\_HI\\_Policy@hhs.texas.gov](mailto:HHS_HI_Policy@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 359" 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-202402777

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 24, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

#### Chapter 360, Office of Deaf and Hard of Hearing 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. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 360, Office of Deaf and Hard of Hearing Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to DHHS.Mailbox@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 360" 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-202402754

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 21, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

#### Chapter 365, Kidney Health Care

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 365, Kidney Health Care, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to KHC@hhs.state.tx.us. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 365" 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-202402752

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 21, 2024



Texas County and District Retirement System

#### Title 34, Part 5

The Texas County and District Retirement System (TCDRS) files this Notice of Intent to consider for readoption, revision, or repeal the chapters listed below, in their entirety, contained in Title 34, Part 5, of the Texas Administrative Code. This review is being conducted in accordance with Texas Government Code §2001.039.

#### Rule Chapters Under Review

Chapter 101, Practice and Procedure Regarding Claims

Chapter 103, Calculations or Types of Benefits

Chapter 105, Creditable Service

Chapter 107, Miscellaneous Rules

Chapter 109, Domestic Relations Orders

Chapter 111, Termination of Participation: Subdivisions

Chapter 113, Texas County and District Retirement System Qualified Replacement Benefit Arrangement

TCDRS will assess if the reasons for adopting or readopting the chapters continue to exist. Each rule will be reviewed to determine whether it is obsolete, and whether the rule reflects current legal and policy considerations. Rules may also be moved to a different chapter or 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.

Comments on the review may be submitted to TCDRS Rule Comments, attention: Legal, Barton Oaks Plaza IV, Ste. 500, 901 S. MoPac Expy, Austin, Texas 78746; call (512) 328-8889; or emailed to TC-DRSRuleComments@tcdrs.org. TCDRS must receive comments to this notice of intent to review rules no later than 30 days from the date this notice is published in the *Texas Register*.

TRD-202402798

Ann McGeehan

General Counsel

Texas County and District Retirement System

Filed: June 26, 2024



Department of Aging and Disability Services

#### Title 40, Part 1

The Texas Health and Human Services Commission (HHSC), as the successor agency of the Texas Department of Aging and Disability Services, proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 40, Part 1, of the Texas Administrative Code:

Chapter 72, Memorandum of Understanding with Other State Agencies

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 72, Memorandum of Understanding with Other State Agencies, 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](mailto:hhsrulescoordinationoffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 72" 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 40, 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](http://www.sos.texas.gov)).

TRD-202402755

Jessica Miller

Director, Rules Coordination Office

Department of Aging and Disability Services

Filed: June 21, 2024

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## Adopted Rule Reviews

Office of Consumer Credit Commissioner

### Title 7, Part 5

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 87, concerning Tax Refund Anticipation Loans, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 87 was published in the March 29, 2024, issue of the *Texas Register* (49 TexReg 2095). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 87 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202402761

Matthew Nance

General Counsel

Office of Consumer Credit Commissioner

Filed: June 21, 2024

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Texas Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 356, Family Violence Program

Notice of the review of this chapter was published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 3022). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 356 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 356 except for:

§356.207 More than One Funding Percentage Waiver

§356.406 Children's Advocate

§356.407 Legal Advocate

§356.408 Volunteer Coordinator

§356.508 Exceptions to Allowable Types of Facilities for a 24-Hour-a-Day Shelter

§356.624 Notification of Court Orders

§356.630 Cooperation with Criminal Justice Officials

§356.632 Volunteer Program

§356.633 Volunteer Recruitment

§356.717 Legal Assistance Services

§356.719 Training and Employment Services

§356.1314 Provision of Health and Human Services Commission (HHSC)-funded Services by Attorneys or Other Licensed Professionals

§356.1322 Notification of Court Orders

§356.1806 Legal Advocate

§356.1807 Volunteer Coordinator

§356.2022 Notification of Court Orders

§356.2028 Cooperation With Criminal Justice Officials

§356.2030 Volunteer Program

§356.2031 Volunteer Recruitment

§356.2113 Legal Assistance Services

§356.2114 Training and Employment Services

The identified repeals and any amendments, if applicable, to Chapter 356 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 356 as required by the Texas Government Code §2001.039.

TRD-202402751

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 21, 2024

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# 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: 7 TAC §33.27(e)(1)

## Annual Assessment Fee Schedule for CEX License Holders:

If the total dollar amount of your annual transactions is:		Then your annual assessment is:
Over --	But not over --	
-----	\$249,999.99	\$3,150.00
\$250,000.00	\$499,999.99	\$3,150.00 plus the amount of your transactions over \$250,000 multiplied by a factor of .00235
\$500,000.00	\$999,999.99	\$3,850.00 plus the amount of your transactions over \$500,000 multiplied by a factor of .00175
\$1,000,000.00	\$9,999,999.99	\$4,900.00 plus the amount of your transactions over \$1 million multiplied by a factor of .000115
\$10,000,000.00	\$24,999,999.99	\$6,000.00 plus the amount of your transactions over \$10 million multiplied by a factor of .0000835
\$25,000,000.00	\$49,999,999.99	\$7,150.00 plus the amount of your transactions over \$25 million multiplied by a factor of .0000735
\$50,000,000.00	\$199,999,999.99	\$9,150.00 plus the amount of your transactions over \$50 million multiplied by a factor of .00001155
\$200,000,000.00	-----	\$10,500.00 plus the amount of your transactions over \$200 million multiplied by a factor of .00001125, but not more than \$24,450.00.

**If the calculation result is greater than \$24,450, your annual assessment is \$24,450.**

Figure: 7 TAC §33.27(e)(2)

**Annual Assessment Fee Schedule for MT License Holders:**

<b>If the total dollar amount of your annual transactions is:</b>		<b>Then your annual assessment is:</b>
<b>Over --</b>	<b>But not over --</b>	
-----	\$249,999.99	\$4,500.00
\$250,000.00	\$499,999.99	\$4,550.00 plus the amount of your transactions over \$250,000 multiplied by a factor of .0024675
\$500,000.00	\$999,999.99	\$5,250.00 plus the amount of your transactions over \$500,000 multiplied by a factor of .0018375
\$1,000,000.00	\$9,999,999.99	\$6,250.00 plus the amount of your transactions over \$1 million multiplied by a factor of .00011500
\$10,000,000.00	\$24,999,999.99	\$7,500.00 plus the amount of your transactions over \$10 million multiplied by a factor of .00008768
\$25,000,000.00	\$49,999,999.99	\$9,000.00 plus the amount of your transactions over \$25 million multiplied by a factor of .00007350
\$50,000,000.00	\$199,999,999.99	\$10,750.00 plus the amount of your transactions over \$50 million multiplied by a factor of .00001559
\$200,000,000.00	-----	\$13,000.00 plus the amount of your transactions over \$200 million multiplied by a factor of .00001575, but not more than \$60,000.00.

**If the calculation result is greater than \$60,000, your annual assessment is \$60,000.**

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Office of 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 07/01/24 - 07/07/24 is 18.00% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/01/24 - 07/07/24 is 18.00% for commercial<sup>2</sup> credit.

<sup>1</sup> Credit for personal, family, or household use.

<sup>2</sup> Credit for business, commercial, investment, or other similar purpose.

TRD-202402793

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: June 26, 2024

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, 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 **August 5, 2024**. 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 **August 5, 2024**. 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, pro-

vides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Angel Macias Amador dba Macias Quarry; DOCKET NUMBER: 2021-0854-WQ-E; IDENTIFIER: RN108712555; LOCATION: Horizon City, El Paso County; TYPE OF FACILITY: aggregate production operation (APO); RULE VIOLATED: 30 TAC §342.25(d), by failing to renew the APO registration annually as regulated activities continued; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Bedford Falls Mfg. Company; DOCKET NUMBER: 2022-0543-AIR-E; IDENTIFIER: RN104757836; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: drapery rod manufacturing facility; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(3) COMPANY: Brenda Huffman dba Margies MHP and Ronald R. Huffman dba Margies MHP; DOCKET NUMBER: 2023-0645-PWS-E; IDENTIFIER: RN111446308; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(4) COMPANY: C and C COUNTRY STORE, INCORPORATED; DOCKET NUMBER: 2023-0563-PST-E; IDENTIFIER: RN102252111; LOCATION: Winnsboro, Wood 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 for releases in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 within 30 days; PENALTY: \$27,076; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: City of Earth; DOCKET NUMBER: 2023-0695-PWS-E; IDENTIFIER: RN101187995; LOCATION: Earth, Lamb County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$5,500; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: CLEAR LAKE REGIONAL MEDICAL CENTER, INCORPORATED dba Clear Lake Heart Hospital; DOCKET NUMBER: 2022-1579-PST-E; IDENTIFIER: RN106153133; LOCATION: Webster, Harris County; TYPE OF FACILITY: medical center with an emergency generator; RULES VIOLATED: 30 TAC §334.7(d)(1)(A) and (3), and §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to provide an amended registration for any change or additional information to the agency regarding the underground storage tank (UST) system within 30 days from the date of the occurrence of the change or addition, and failing to renew a previously-issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual as a Class A, Class B, and Class C operator for the facility; PENALTY: \$4,962; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Corpus Christi Sand and Gravel, LLC; DOCKET NUMBER: 2023-0353-PST-E; IDENTIFIER: RN111063087; LOCATION: Odem, San Patricio County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.127(a)(1) and TWC, §26.346(a), by failing to register all aboveground storage tanks in existence on or after September 1, 1989, with the agency; PENALTY: \$1,625; ENFORCEMENT COORDINATOR: Tiffany Chu, (817) 588-5891; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2023-1365-IWD-E; IDENTIFIER: RN102323268; LOCATION: Baytown, Chambers 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 WQ0005014000, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with permitted effluent limitations; PENALTY: \$90,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$36,000; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2023-1626-AIR-E; IDENTIFIER: RN109447722; LOCATION: Orla, Reeves County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §116.615(2) and §122.143(4), Standard Permit Registration Number 143458, Federal Operating Permit Number O4075, General Terms and Conditions and Special Terms and Conditions Number 7, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$25,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,500; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Freeport LNG Development, L.P.; DOCKET NUMBER: 2022-0058-AIR-E; IDENTIFIER: RN106481500; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: liquified natural gas manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Numbers 104840 and N170, Special Conditions Number 1, Federal Operating Permit Number O3958, General Terms and Conditions and Special Terms and Conditions Number 8, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$152,173; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512)

239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: Gold Burg Independent School District; DOCKET NUMBER: 2022-1294-PWS-E; IDENTIFIER: RN101261428; LOCATION: Bowie, Montague County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the facility's well pump prior to any treatment; 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.43(c)(1), by failing to provide the ground storage tank with a gooseneck roof vent or a roof ventilator designed by an engineer and installed in strict accordance with American Water Works Association standards and equipped with a corrosion-resistant 16-mesh or finer screen; 30 TAC §290.46(e)(4)(A), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher license issued by the executive director (ED); 30 TAC §290.46(f)(2) and (3)(A)(i)(III), 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; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements; PENALTY: \$3,398; ENFORCEMENT COORDINATOR: Ashley Lemke, (512) 239-1118; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: Harris County Municipal Utility District Number 358; DOCKET NUMBER: 2024-0400-MWD-E; IDENTIFIER: RN102844776; LOCATION: Cypress, Harris County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013296002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$24,000; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: HPA Texas Sub 2018-1 LLC; DOCKET NUMBER: 2023-0705-OSS-E; IDENTIFIER: RN111586285; LOCATION: Midlothian, Ellis County; TYPE OF FACILITY: private residence; RULES VIOLATED: 30 TAC §285.32(b)(1)(D) and §285.70(a) and Texas Health and Safety Code, §366.017(b), by failing to make required repairs to a malfunctioning on-site sewage facility; PENALTY: \$262; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: John K. Sheffield; DOCKET NUMBER: 2023-1605-OSI-E; IDENTIFIER: RN105376818; LOCATION: Chester, Tyler County; TYPE OF FACILITY: on-site sewage facility (OSSF); RULES VIOLATED: 30 TAC §285.61(4) and Texas Health and Safety Code, §366.004 and §366.051(c), by failing to obtain

documentation that the owner, or owner's agent, has authorization to construct prior to constructing, altering, repairing, or extending an OSSF; PENALTY: \$605; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: Kinder Morgan Tejas Pipeline LLC; DOCKET NUMBER: 2022-0525-AIR-E; IDENTIFIER: RN100542612; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: compression and storage of pipeline quality sweet natural gas facility; RULE VIOLATED: Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent unauthorized emissions; PENALTY: \$9,375; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(16) COMPANY: Lisanti Foodservice of Texas, Incorporated; DOCKET NUMBER: 2022-0559-PST-E; IDENTIFIER: RN109349613; LOCATION: Flower Mound, Denton County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to ensure that all underground storage tank (UST) recordkeeping requirements are met; 30 TAC §334.45(d)(1)(E)(iv) and §334.48(g)(1)(A)(ii), by failing to test the UST system's containment sumps at least once every three years to ensure that the equipment is liquid tight; and 30 TAC §334.50(b)(1)(B) and (2)(A)(iii) and TWC, §26.3475(a) and (c)(1), by failing to monitor the UST and the associated pressurized piping installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring; PENALTY: \$4,725; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: Louis Vuitton U.S. Manufacturing, Incorporated; DOCKET NUMBER: 2024-0581-MWD-E; IDENTIFIER: RN110000056; LOCATION: Alvarado, Johnson 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 WQ0015622001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$78,625; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: Lyka Orch; DOCKET NUMBER: 2023-1361-PST-E; IDENTIFIER: RN101447548; LOCATION: Jacksboro, Jack County; TYPE OF FACILITY: former convenience store of retail sales of gasoline; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks; PENALTY: \$3,251; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(19) COMPANY: MIDWAY WATER UTILITIES, INCORPORATED; DOCKET NUMBER: 2023-1512-MLM-E; IDENTIFIER: RN105247597; LOCATION: Gordonville, Grayson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.118(a) and (b), by failing to meet the maximum secondary constituent level of 0.3 milligrams per liter for iron; and 30 TAC §305.42(a) and TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of wastewater from the surface water treatment plant filters; PENALTY: \$5,002; ENFORCEMENT COORDINATOR: Ilija

Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(20) COMPANY: MIDWAY WATER UTILITIES, INCORPORATED; DOCKET NUMBER: 2023-1546-PWS-E; IDENTIFIER: RN101265213; LOCATION: Graford, Palo Pinto County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.111(c)(3)(B), by failing to meet minimum treatment technique requirements for a system that treats surface water before the water reaches the entry point to the distribution system; 30 TAC §290.111(e)(1)(B) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to achieve a turbidity level of combined filter effluent (CFE) that is less than 0.3 nephelometric turbidity unit (NTU) in at least 95% of the samples tested during the month of July 2023; and 30 TAC §290.111(i)(4)(B) and THSC, §341.031(a), by failing to achieve CFE turbidity levels that are less than 1.0 NTU during a period when individual filter effluent turbidity levels were above 2.0 NTU at one or more filters; PENALTY: \$20,200; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(21) COMPANY: Motiva Enterprises LLC f/k/a Motiva Chemicals LLC; DOCKET NUMBER: 2023-1304-AIR-E; IDENTIFIER: RN100217389; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §101.20(3), 116.715(a), and 122.143(4), Flexible Permit Numbers 16989 and PSDTX794, Special Conditions Number 1, Federal Operating Permit Number O1317, General Terms and Conditions and Special Terms and Conditions Number 23, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$25,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,500; ENFORCEMENT COORDINATOR: Caleb Martin, (512) 239-2091; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: Nerro Supply, LLC; DOCKET NUMBER: 2023-1597-PWS-E; IDENTIFIER: RN101270080; LOCATION: Mont Belview, Chambers County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Dalton Wallace, (512) 239-6704; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(23) COMPANY: North Hunt Special Utility District; DOCKET NUMBER: 2023-1611-PWS-E; IDENTIFIER: RN101189322; LOCATION: Wolfe City, Hunt County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of one milligram per liter for nitrite; PENALTY: \$4,600; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(24) COMPANY: PERMIAN LODGING BIG SPRING LLC; DOCKET NUMBER: 2023-0600-MWD-E; IDENTIFIER: RN11189767; LOCATION: Big Spring, Howard County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (17) and §319.7(d) and Texas Pollutant Discharge Elimination System Permit Number WQ0015974001, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$22,500; ENFORCEMENT COORDINATOR: Samantha

Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(25) COMPANY: PRINCE INTERNATIONAL, INCORPORATED; DOCKET NUMBER: 2022-1539-PWS-E; IDENTIFIER: RN102387420; LOCATION: Alvin, Galveston County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(e)(3)(D), by failing to provide facilities for determining the amount of disinfectant used daily and the amount of disinfectant remaining for use; 30 TAC §290.46(f)(2) and (3) and (B)(iii) and (iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$1,300; ENFORCEMENT COORDINATOR: Miles Caston, (512) 239-4593; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(26) COMPANY: Targa Midstream Services LLC; DOCKET NUMBER: 2021-1310-AIR-E; IDENTIFIER: RN100222900; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: bulk liquid natural gas storage tank terminal; RULES VIOLATED: 30 TAC §§101.20(1), 115.352(2)(A), and 122.143(4), 40 Code of Federal Regulations (CFR) §60.482-9(a), Federal Operating Permit (FOP) Number O612, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 1.A, and Texas Health and Safety Code (THSC), §382.085(b), by failing to repair leaking equipment that were identified as delay of repair before the end of the next process unit shutdown; 30 TAC §§101.20(1) and (3), 116.115(c), and 122.143(4), 40 CFR §60.18(c)(3)(ii), New Source Review (NSR) Permit Numbers 101616, PSDTX696M2, N214M2, and GHGPSDTX26M1, Special Conditions (SC) Number 8.A, FOP Number O612, GTC and STC Number 12, and THSC, §382.085(b), by failing to maintain the net heating value of the gas being combusted at 300 British thermal units per standard cubic foot or greater if the flare is steam-assisted or air-assisted; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 56431 and 101616, PSDTX696M2, N214M2, and GHGPSDTX26M1, SC Number 1, FOP Numbers O612 and O615, GTC and STC Numbers 12 and 20, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(a)(1)(B) and §122.143(4), FOP Number O615, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; 30 TAC §101.201(b) and §122.143(4), FOP Number O612, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to create a final record for a non-reportable emissions event no later than two weeks after the end of an emissions event; 30 TAC §§116.115(c), 116.615(2), and 122.143(4), Standard Permit Registration Number 110145, FOP Number O612, GTC and STC Number 20, and THSC, §382.085(b), by failing to comply with the maximum firing rate; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O612, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$480,876; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$240,438; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(27) COMPANY: Thakurs Retailer Group LLC dba Thakurs C Store; DOCKET NUMBER: 2023-0618-PST-E; IDENTIFIER: RN106546773; LOCATION: Lavon, Collin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES

VIOLATED: 30 TAC §115.222(3) and Texas Health and Safety Code, §382.085(b), by failing to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system; 30 TAC §334.45(d)(1)(E)(vi), by failing to equip tank manways and dispenser sumps of a secondarily contained underground storage tank (UST) system with liquid sensing probes which will alert the system owner or operator if more than two inches of liquid collects in any sump or manway; 30 TAC §334.48(h)(1)(A)(i) and TWC, §26.3475(c)(2), by failing to conduct the walkthrough inspection of the spill prevention equipment every 30 days; and 30 TAC §334.48(c) and §334.50(b)(1)(B) and (2)(A)(iii) and TWC, §26.3475(c)(1) and (a), by failing to monitor the UST installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, and failing to monitor the piping associated with the UST system installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, and also, failing to conduct effective inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel; PENALTY: \$20,726; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(28) COMPANY: THE LAKEVILLE PROPERTY OWNERS' ASSOCIATION, A Texas Unincorporated Nonprofit Association; DOCKET NUMBER: 2023-1412-PWS-E; IDENTIFIER: RN101279651; LOCATION: Humble, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public water supply 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: \$950; ENFORCEMENT COORDINATOR: Nick Lohret-Froio, (512) 239-4495; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(29) COMPANY: The Premcor Refining Group Incorporated; DOCKET NUMBER: 2021-1634-AIR-E; IDENTIFIER: RN102584026; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 6825A, PSDTX49M2, N65, and GHGPSDTX167M1, Special Conditions Number 1, Federal Operating Permit (FOP) Number O1498, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 25, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and §122.143(4), FOP Number O1498, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; PENALTY: \$48,413; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$24,206; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(30) COMPANY: Western Refining Company LLC; DOCKET NUMBER: 2023-1466-AIR-E; IDENTIFIER: RN100213016; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: integrated petroleum refinery; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O1348, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC),

§382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 18897, Special Conditions Number 1, FOP Number O1348, GTC and STC Number 23, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$6,225; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$2,490; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(31) COMPANY: Zachry Construction Corporation; DOCKET NUMBER: 2024-0127-WQ-E; IDENTIFIER: RN111259123; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG113193, Part III, Permit Requirements Number A.1, by failing to comply with permit effluent limitations; and 30 TAC §305.125(17) and TPDES General Permit Number TXG113193, Part IV, Standard Permit Conditions Number 7.f, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$7,875; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202402780  
Gitanjali Yadav  
Deputy Director, Litigation  
Texas Commission on Environmental Quality  
Filed: June 25, 2024



#### Enforcement Orders

An agreed order was adopted regarding SUN SHINE STAR CORPORATION dba Sunrise Super Stop, Docket No. 2021-0378-PST-E on June 25, 2024 assessing \$4,551 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding William Scott Egert dba Scotts Complete Car Care, Docket No. 2022-0501-PST-E on June 25, 2024 assessing \$3,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Coldwater Dairy, LLC, Docket No. 2022-1015-PWS-E on June 25, 2024 assessing \$2,383 in administrative penalties with \$476 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 Linda Wiley dba Northview Mobile Home Park, Docket No. 2022-1097-PWS-E on June 25, 2024 assessing \$6,363 in administrative penalties with \$1,272 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, 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 Home Depot U.S.A., Inc. dba Home Depot 0561, Docket No. 2022-1430-IHW-E on June 25, 2024 assessing \$275 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier,

Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Gruver, Docket No. 2023-0101-PWS-E on June 25, 2024 assessing \$1,950 in administrative penalties with \$390 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 EXPERIAN INFORMATION SOLUTIONS, INC. dba Experian McKinney Data Center, Docket No. 2023-0124-PST-E on June 25, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Windfern Forest Utility District, Docket No. 2023-0379-PWS-E on June 25, 2024 assessing \$900 in administrative penalties with \$180 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 Kinloch Realty LLC, Docket No. 2023-0390-EAQ-E on June 25, 2024 assessing \$1,625 in administrative penalties with \$325 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, 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 Brad T. Archer, Docket No. 2023-0515-WOC-E on June 25, 2024 assessing \$686 in administrative penalties with \$137 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, 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. 2023-0619-PWS-E on June 25, 2024 assessing \$3,675 in administrative penalties with \$735 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, 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. 2023-0622-PWS-E on June 25, 2024 assessing \$975 in administrative penalties with \$195 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 Equistar Chemicals, LP, Docket No. 2023-0702-AIR-E on June 25, 2024 assessing \$5,625 in administrative penalties with \$1,125 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 H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C, Docket No. 2023-1156-PST-E on June 25, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Ramya Wendt, 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 Florence Mikeska, Docket No. 2023-1158-WR-E on June 25, 2024 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TEXAS TRANSEASTERN, INC., Docket No. 2023-1184-PST-E on June 25, 2024 assessing \$6,036 in administrative penalties with \$1,207 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Fishbeck, 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 RSK&S LLC, Docket No. 2023-1195-PST-E on June 25, 2024 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Danielle Fishbeck, 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 Chandlers Landing Community Association, Docket No. 2023-1358-WR-E on June 25, 2024 assessing \$350 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Mistie Gonzales, 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 RAY ELLISON ENTERPRISE INC dba Roadster 18, Docket No. 2023-1469-PST-E on June 25, 2024 assessing \$5,000 in administrative penalties with \$1,000 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 Abubaker Yusuf, Docket No. 2023-1656-PST-E on June 25, 2024 assessing \$6,012 in administrative penalties with \$1,202 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, 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 CALEB AND CASEN ENT INC dba Al's Food Mart, Docket No. 2023-1727-PST-E on June 25, 2024 assessing \$5,004 in administrative penalties with \$1,000 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 SILVERADO SIGNATURE HOMES, L.L.C., Docket No. 2024-0200-WQ-E on June 25, 2024 assessing \$7,253 in administrative penalties with \$1,450 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jahangir Alam dba Super Food Mart, Docket No. 2024-0250-PST-E on June 25, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, 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 Ellinger Sand & Gravel, LLC, Docket No. 2024-0268-WQ-E on June 25, 2024 assessing \$5,000 in administrative penalties with \$1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, 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 Top-Way Materials, LLC, Docket No. 2024-0287-AIR-E on June 25, 2024 assessing \$2,500 in administrative penalties with \$500 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, 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 HCH SANTA FE LLC, Docket No. 2024-0303-WQ-E on June 25, 2024 assessing \$2,625 in administrative penalties with \$525 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.

TRD-202402801

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 26, 2024



#### Enforcement Orders

An agreed order was adopted regarding S F K R LLC, Docket No. 2019-1716-PST-E on June 26, 2024 assessing \$30,516 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding Big Diamond, LLC dba Circle K Store 2743943 and dba Circle K Store 2743949, Docket No. 2020-0767-PST-E on June 26, 2024 assessing \$53,438 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding Big Diamond, LLC dba Corner Store 3948, Docket No. 2020-0932-PST-E on June 26, 2024 assessing \$34,313 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding Samsung Austin Semiconductor, LLC, Docket No. 2021-0934-MLM-E on June 26, 2024 assessing \$186,326 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jackson County Water Control and Improvement District No. 2, Docket No. 2021-0937-MWD-E on June 26, 2024 assessing \$17,100 in administrative penalties with \$3,420 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.



An agreed order was adopted regarding INV Performance Surfaces, LLC, Docket No. 2021-1207-AIR-E on June 26, 2024 assessing \$34,875 in administrative penalties with \$6,975 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Bastrop, Docket No. 2021-1490-MWD-E on June 26, 2024 assessing \$106,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Rose City, Docket No. 2022-0017-PWS-E on June 26, 2024 assessing \$38,263 in administrative penalties with \$7,652 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, 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 Post Granada, LP, Docket No. 2022-0390-WQ-E on June 26, 2024 assessing \$33,602 in administrative penalties with \$6,720 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Town of Round Top, Docket No. 2022-0436-MWD-E on June 26, 2024 assessing \$13,500 in administrative penalties with \$2,700 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, 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 GLENDALE WATER SUPPLY CORPORATION, Docket No. 2022-0454-PWS-E on June 26, 2024 assessing \$8,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, 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 Creek Water Utility LLC and Susan Janet Baker dba Creek Water Utility LLC, Docket No. 2022-0609-PWS-E on June 26, 2024 assessing \$13,292 in administrative penalties with \$2,658 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 Dan M. Leung and Curtis Ray Overstreet, Docket No. 2022-0682-MSW-E on June 26, 2024 assessing \$7,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CANTON BUSINESS LLC dba Canton Food Mart, Docket No. 2022-0974-PST-E on June 26, 2024 assessing \$34,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pack Ellis Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2022-1105-PWS-E on June 26, 2024 assessing \$4,500 in administrative penalties. 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 SIMPLY AQUATICS, INC., Docket No. 2022-1135-PWS-E on June 26, 2024 assessing \$5,210 in administrative penalties. 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 Aqua Texas, Inc., Docket No. 2022-1205-PWS-E on June 26, 2024 assessing \$9,939 in administrative penalties with \$1,987 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 Meta Marie Dolgener dba Bernhard Trailer Park, Docket No. 2022-1288-PWS-E on June 26, 2024 assessing \$30,885 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, 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 Motiva Enterprises LLC f/k/a Motiva Chemicals LLC, Docket No. 2022-1680-AIR-E on June 26, 2024 assessing \$28,938 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb Martin Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-0211-PWS-E on June 26, 2024 assessing \$2,250 in administrative penalties. 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 Brazoria County, Docket No. 2023-0297-PWS-E on June 26, 2024 assessing \$1,312 in administrative penalties with \$1,312 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 Gaines County, Docket No. 2023-0299-PWS-E on June 26, 2024 assessing \$5,250 in administrative penalties with \$5,250 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 Lake Livingston Heights Water Supply Corporation Docket No. 2023-0559-PWS-E on June 26, 2024 assessing \$1,400 in administrative penalties. 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 Kinder Morgan Production Company LLC, Docket No. 2023-0607-AIR-E on June 26, 2024 assessing \$22,500 in administrative penalties. 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 OXY USA WTP LP, Docket No. 2023-0864-AIR-E on June 26, 2024 assessing \$19,695 in administrative penalties with \$3,939 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Capitol Aggregates, Inc., Docket No. 2023-0900-MLM-E on June 26, 2024 assessing \$13,388 in administrative penalties with \$2,677 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, 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 Patriot Erectors LLC, Docket No. 2023-0901-MLM-E on June 26, 2024 assessing \$46,000 in administrative penalties with \$9,200 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, 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 Waller County Road Improvement District No. 1, Docket No. 2023-0994-MWD-E on June 26, 2024 assessing \$12,937 in administrative penalties with \$2,587 deferred. Information concerning any aspect of this order may be obtained by contacting Sarah Castillo, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding C R C WATER SUPPLY CORPORATION, Docket No. 2023-1014-PWS-E on June 26, 2024 assessing \$2,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Hannah Martinez, 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 Valley Water Supply Corporation, Docket No. 2023-1031-PWS-E on June 26, 2024 assessing \$4,550 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Margaux Ordoveza, 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 DTT LLC, Docket No. 2023-1044-MWD-E on June 26, 2024 assessing \$43,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Monica Larina, 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. 2023-1180-PWS-E on June 26, 2024 assessing \$13,466 in administrative penalties with \$2,693 deferred. Information concerning any aspect of this order may be obtained by contacting Christiana McCrimmon, 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 Gorman, Docket No. 2023-1188-PWS-E on June 26, 2024 assessing \$3,300 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Dalton Wallace, 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 STRYKER LAKE WATER SUPPLY CORPORATION, Docket No. 2023-1278-PWS-E on June 26, 2024 assessing \$2,975 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mar-

gaux Ordoveza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Lubrizol Corporation, Docket No. 2023-1306-AIR-E on June 26, 2024 assessing \$13,125 in administrative penalties with \$2,625 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, 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 Granite Shoals, Docket No. 2023-1357-PWS-E on June 26, 2024 assessing \$10,950 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Hannah Martinez, 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 Mansfield Service Partners South, LLC, Docket No. 2023-1392-PST-E on June 26, 2024 assessing \$7,875 in administrative penalties \$1,575 deferred. Information concerning any aspect of this order may be obtained by contacting Celi-cia Garza, 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 Michael G. MacDougall, Docket No. 2023-1673-MLM-E on June 26, 2024 assessing \$17,945 in administrative penalties with \$3,588 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 Teague, Docket No. 2024-0126-MWD-E on June 26, 2024 assessing \$15,412 in administrative penalties with \$3,082 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 Texas Department of Criminal Justice, Docket No. 2024-0159-MWD-E on June 26, 2024 assessing \$24,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202402802

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 26, 2024



### Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 176368

**APPLICATION.** Five Star Concrete LLC, 2 Grist Mill Road, Umland, Texas 78640-9363 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Permanent Concrete Batch Plant with Enhanced Controls Registration Number 176368 to authorize the operation of a concrete batch plant. The facility is proposed to be located using the following driving directions: from the intersection of Northbound Interstate Highway 35 frontage road and Watson Lane East, travel East on Watson Lane East

for approximately 1.5 miles, turn left to travel northeast on Soechting Lane for approximately 0.7 miles to find the location on the left, in New Braunfels, Comal County, Texas 78130. 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. 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=-98.014759,29.76522&level=13>. This application was submitted to the TCEQ on May 16, 2024. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on June 11, 2024.

**PUBLIC COMMENT / PUBLIC HEARING.** Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/). Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

**The Public Hearing is to be held:**

**Monday, August 12, 2024, at 6:00 p.m.**

**Church Hill Middle School**

**1275 North Business 35**

**New Braunfels, Texas 78130**

**RESPONSE TO COMMENTS.** A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

**CENTRAL/REGIONAL OFFICE.** The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ San Antonio Regional Office, located at 14250 Judson Road, San Antonio, Texas 78233-4480, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

**INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at 1 (800) 687-4040. Si desea información en español, puede llamar al 1-800-687-4040.**

Further information may also be obtained from Five Star Concrete, LLC, 2 Grist Mill Road, Uhland, Texas 78640-9363, or by calling Mr. Shawn Hrabal, Operations Manager at (512) 398-7797.

TRD-202402803

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 26, 2024



Notice of Correction to Agreed Order Number 8

In the October 6, 2023, issue of the *Texas Register* (48 TexReg 5839), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 8, for ERVIN TRADING INCORPORATED; Docket Number 2023-0810-PST-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$4,918."

For questions concerning the error, please contact Michael Parrish at (512) 239-2548.

TRD-202402781

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 25, 2024



Notice of District Petition

Notice issued June 20, 2024

TCEQ Internal Control No. D-04102024-031; Century Land Holdings II, LLC, a Colorado limited liability company, ("Petitioner") filed a petition for creation of Park Place Municipal Utility District of Guadalupe County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article III, Section 52 and Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code (TWC); 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner is the owner of a majority of the assessed 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 70.817 acres of land, located within Guadalupe County, Texas; (4) the land to be included in the proposed District is entirely within the extraterritorial jurisdiction of the City of New Braunfels (City); and (5) by Resolution No. 2024-R34, passed on March 25, 2024, the City granted consent for the creation of the proposed District. The petition further states that the proposed District will (1) purchase, construct, acquire, maintain, own, operate, improve, extend, and repair a water works for residential and commercial purposes; (2) purchase, construct, acquire, maintain, own, operate, improve, extend, and repair a sanitary sewer system for residential and commercial purposes; (3) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate, and amend local storm waters or other harmful excesses of waters; and (4) such other purchase, construction, acquisition, improvement, maintenance, and

operation of such additional facilities, systems, plants and enterprises, and road facilities, as shall be consistent with all of the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of purchasing and constructing the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$13,300,000.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://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](http://www.tceq.texas.gov).

TRD-202402799

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 26, 2024



#### Notice of District Petition

Notice issued June 20, 2024

TCEQ Internal Control No. D-03142024-030: Furizon, Limited, a Texas limited partnership (Petitioner) filed a petition for creation of Sunrise Hill Municipal Utility District of Grayson County (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 of the assessed value of the land to be included in the proposed District; (2) there are no lienholders on the property to be in-

cluded in the proposed District; (3) the proposed District will contain approximately 312.055 acres located within Grayson 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, improve, or extend inside or outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; (5) and, purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with 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 \$51,920,000 (\$39,130,000 for water, wastewater, and drainage plus \$12,790,000 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](http://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](http://www.tceq.texas.gov).

TRD-202402800

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 26, 2024

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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 **August 5, 2024**. 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 August 5, 2024**. 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: Arroyo Bravo Water Supply, LLC; DOCKET NUMBER: 2022-1134-UTL-E; TCEQ ID NUMBER: RN101191930; LOCATION: one mile north of Canyon Dam of Farm-to-Market Road 306 near Canyon Lake, Comal County; TYPE OF FACILITY: water utility; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the Utility's ability to provide emergency operations; PENALTY: \$610; STAFF ATTORNEY: Misty James, Litigation, MC 175, (512) 239-0631; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: City of Marlin; DOCKET NUMBER: 2019-0319-MWD-E; TCEQ ID NUMBER: RN102915774; LOCATION: 241 County Road 302, on the west side of County Road 302, approximately 2.5 miles southwest of the intersection of Business State Highway 6 and Farm-to-Market Road 712, Falls County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1) and (5), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010110002, Permit Conditions Number 2.g., by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state; TWC, §26.039(b), 30 TAC §305.125(1) and (9)(A), and TPDES Permit Number WQ0010110002, Monitoring and Reporting Requirements Numbers 7.a and 7.b.i., by failing to report an unauthorized discharge orally to the TCEQ Waco Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Waco Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance; 30 TAC

§305.125(1) and (5) and TPDES Permit Number WQ0010110002, Operational Requirements Number 1, by failing to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and §317.3(a) and TPDES Permit Number WQ0010110002, Operational Requirements Number 1, by failing to secure the lift stations in an intruder-resistant manner; 30 TAC §317.3(e)(5), by failing to provide an audiovisual alarm system for all lift stations; 30 TAC §317.4(a)(8) and §317.7(i), by failing to provide atmospheric vacuum breakers on all potable water washdown hoses; 30 TAC §305.125(1) and TPDES Permit Number WQ0010110002, Monitoring and Reporting Requirements Number 7.c., by failing to timely report to the TCEQ Waco Regional Office and the Enforcement Division in writing, any effluent violation which deviates from the permitted effluent limitations by more than 40% within five working days of becoming aware of the noncompliance; 30 TAC §305.125(1) and §319.11(c) and TPDES Permit Number WQ0010110002, Definitions and Standard Permit Conditions Numbers 1.b and 2.e., by failing to perform effluent calculations as specified in the permit; 30 TAC §305.125(1) and §319.11(b) and TPDES Permit Number WQ0010110002, Monitoring and Reporting Requirements Number 2.a., by failing to properly preserve effluent samples; 30 TAC §305.125(1) and TPDES Permit Number WQ0010110002, Monitoring and Reporting Requirements Numbers 3.c.ii and 3.c.iii., by failing to maintain complete and accurate records; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0010110002, Operational Requirements Number 1 and Other Requirements Number 7, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; TWC, §26.121(a)(1), 30 TAC §305.125(1) and §317.4(b)(4), and TPDES Permit Number WQ0010110002, Permit Conditions Number 2.g., by failing to dispose of all screenings and grit in an approved manner; 30 TAC §317.7(e), by failing to provide the required plant protection; TWC, §26.0301(c), 30 TAC §§30.5(a), 30.331(b), and 305.125(1), and TPDES Permit Number WQ0010110002, Operational Requirements Number 9, by failing to ensure that a person that operates, assists in the operation, or contracts to operate domestic wastewater treatment facilities or supervise wastewater collection activities, other than an operator-in-training, is properly licensed; and TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0010110002, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, by failing to comply with the permitted effluent limitations; PENALTY: \$138,316; Supplemental Environmental Project offset amount of \$138,316 applied to Wastewater Treatment Facility Collection System Rehabilitation; STAFF ATTORNEY: Benjamin Warms, Litigation, MC 175, (512) 239-5144; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: Pilot Thomas Logistics LLC dba Pilot Thomas Logistics Card-Lock # 8622 and Pilot Thomas Logistics Card-Lock # 8612; DOCKET NUMBER: 2021-1446-PST-E; TCEQ ID NUMBERS: RN102243185 (Facility 1); RN102219433 (Facility 2); LOCATIONS: 2410 West Wall Street, Midland, Midland County (Facility 1); 803 Hobbs Highway, Seminole, Gaines County (Facility 2); TYPE OF FACILITY: two underground storage tank (UST) systems and fleet refueling facilities with retail sales of gasoline; RULES VIOLATED: TWC, §26.3467(a) and 30 TAC §334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST (Facility 1); 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date (Facility 1); TWC, §26.3467(a) and 30 TAC §334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before

accepting delivery of a regulated substance into the UST (Facility 2); and 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date (Facility 2); PENALTY: \$12,000; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175, (512) 239-6860; REGIONAL OFFICE: Midland Regional Office, 9900 West Interstate Highway 20, Suite 100, Midland, Texas 79706, (432) 570-1359.

TRD-202402782

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 25, 2024



## 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 DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 5, 2024**. 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 August 5, 2024**. 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: Gregory Allen Magers; DOCKET NUMBER: 2022-0339-PWS-E; TCEQ ID NUMBER: RN107368524; LOCATION: 2008 County Road 350 near Concan, Uvalde County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; 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 §290.110(d)(1), by failing to measure the free chlorine residual within the distribution system with a colorimeter, spectrophotometer, or color comparator; 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 §290.41(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 §290.46(f)(2) and (3)(A)(i)(III), (ii)(III), (B)(iii), (iv), and (D)(ii) and TCEQ Agreed Order Docket Number 2017-0783-PWS-E, Ordering Provision Number 2.a., by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director (ED) upon request; 30 TAC §290.41(c)(3)(C), by failing to seal the space between the casing and drill hole by using enough cement under pressure to completely fill and seal the annular space between the well casing and the drill hole; 30 TAC §290.41(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 inch per foot; and 30 TAC §290.110(e)(4)(B), by failing to retain the Disinfectant Level Quarterly Operating Reports and provide a copy if requested by the ED; PENALTY: \$10,320; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Jose Isaias Roque; DOCKET NUMBER: 2021-0638-MSW-E; TCEQ ID NUMBER: RN111225405; LOCATION: 22804 Mason Pass, San Antonio, Bexar County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULES VIOLATED: 30 TAC §330.7 and §330.15(c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$6,250; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Kenneth Marriott and William Dennis Cowart; DOCKET NUMBER: 2020-1594-AIR-E; TCEQ ID NUMBER: RN109966317; LOCATION: 173 Danny Reed Road, Huntington, Angelina County; TYPE OF FACILITY: residential property; RULES VIOLATED: Texas Health and Safety Code, §382.085(b) and 30 TAC §111.201, by causing, suffering, allowing, or permitting outdoor burning within the state of Texas; PENALTY: \$1,912; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: Samay Piya Enterprise Inc dba Seminary Food Mart; DOCKET NUMBER: 2021-0017-PST-E; TCEQ ID NUMBER: RN102387107; LOCATION: 300 East Seminary Drive, Fort Worth, Tarrant County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(a), by failing to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion; TWC, §26.121 and 30 TAC §334.76, by failing to perform initial response actions within 24 hours of a release; 30 TAC §334.77, by failing to conduct initial abatement measures and submit a report detailing remediation activities at the facility; 30 TAC §334.78, by failing to conduct the required site assessment actions; and 30 TAC §334.48(c), by failing to conduct inventory control procedures for the USTs at a retail service station; PENALTY: \$32,812; 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.

(5) COMPANY: WATER ASSOCIATION OF NORTH LAKE, INC.; DOCKET NUMBER: 2019-1148-PWS-E; TCEQ ID NUMBER: RN101450047; LOCATION: 2094 Dove Creek Circle near Aubrey, Denton County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.106(c) and (e), and §290.107(c) and (e), by failing to collect and report the results of cyanide, nitrate, and volatile organic chemical (VOC) contaminants sampling to the executive director (ED) for the January 1, 2018 - December 31, 2018 monitoring period; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the ED by the tenth day of the month following the end of each quarter for the second quarter of 2018 through the first quarter of 2019; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied by a signed Certificate of Delivery, to the ED regarding the failure to report the results of nitrate and VOC contaminant sampling to the ED for the January 1, 2017 - December 31, 2017 monitoring period and regarding the failure to report the results of the synthetic organic chemical Group 5 contaminants sampling to the ED for the January 1, 2015 - December 31, 2017 monitoring period; 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2016 - December 31, 2016 monitoring period; and TWC, §5.702 and 30 TAC §291.76, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 12198 for calendar years 2015 - 2018; PENALTY: \$1,640; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Water Association of North Lake, Inc.; DOCKET NUMBER: 2020-0772-MLM-E; TCEQ ID NUMBER: RN101450047; LOCATION: 2094 Dove Creek Circle near Aubrey, Denton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: TWC, §11.1272(c), 30 TAC §288.20(a), §288.30(5)(B), and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.d.iii. by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier; 30 TAC §290.43(c)(8) and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.h.i., by failing to maintain the facility's ground storage tank in strict accordance with current American Water Works Association (AWWA) standards; Texas Health and Safety Code (THSC), §341.0315(c), 30 TAC §290.45(b)(1)(B)(iv), and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.h.ii., by failing to provide a pressure tank capacity of 20 gallons per connection; THSC, §341.033(a) and 30 TAC §290.46(e)(4)(A), by failing to operate the facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher groundwater license; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; 30 TAC §290.46(n)(1), by failing to maintain at the facility accurate and up-to-date as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(n)(2), by failing to

make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; 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(f)(2) and (3)(A)(i)(III), (ii)(III), (iii), (iv) and (v), and (B)(ii), (iii) and (iv), and (D)(i) and (ii), and (E)(iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.46(i) and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.d.ii., by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.43(c)(8) and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.h.i., by failing to maintain the facility's ground storage tank in strict accordance with current AWWA standards; THSC, §341.0315(c), 30 TAC §290.45(b)(1)(B)(iv), and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.h.ii., by failing to provide a pressure tank capacity of 20 gallons per connection; 30 TAC §290.42(l) and TCEQ Agreed Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.b.i., by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(n)(3) and TCEQ Default Order Docket Number 2017-0471-MLM-E, Ordering Provision Number 3.d.i., by failing to keep on file copies of well completion data as defined by 30 TAC §290.41(c)(3)(A) for as long as well remains in service; TWC, §5.702 and 30 TAC §290.51(a)(6), by failing to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account Number 90610171 for Fiscal Years 2018 through 2020; and TWC, §5.702 and 30 TAC §291.76, by failing to pay regulatory assessment fees and/or an associated late fee for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 12198 for the calendar Year 2019; PENALTY: \$12,343; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202402783

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 25, 2024

## Texas Ethics Commission

### List of Delinquent Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

#### **Deadline: Personal Financial Statement due January 27, 2022**

86398 - Himesh Mukund Gandhi, 810 Piedmont St, Sugar Land, Texas 77478

#### **Deadline: Personal Financial Statement due February 14, 2022**

86439 - Charlotte Valdez, 535 Humbolt, San Antonio, Texas 78211

86284 - Cameron A. Campbell, 9950 Westpark Dr., Houston, Texas 77063

86437 - Allan E. Meagher, 915 Colony Ridge Ct, Irving, Texas 75061  
32066 - Norma P. Chavez, 824 Bolivia, El Paso, Texas 79903  
83170 - Martha E. Fierro, 7552 Tipps St., Houston, Texas 77023  
85291 - Zachary A. Vance, P.O. Box 4713, Lago Vista, Texas 78645  
86409 - Kathryn Monette, 1814 Abilene Ct, Grand Prairie, Texas 75052  
86410 - Stephen A. Missick, 611 Thomas Castleberry Dr., Shepard, Texas 77371  
65745 - James Gregory Glass, 1744 Norfolk St., Houston, Texas 77098  
42411 - Jose Menendez, 7715 Windmill Hill, San Antonio, Texas 78229  
85779 - George Green, 238 Loma Vista St., New Braunfels, Texas 78130  
69674 - Barbara Jean Stalder, 11200 Fuqua Ste. 100 #158, Houston, Texas 77089  
86490 - Sean Sharp, 6004 Baylor St., Fort Worth, Texas 76119  
86501 - Jason Eric Withers, 1009 B Ruthven St., Houston, Texas 77019  
85716 - Crystal Dillard, 6323 Creekbend, Houston, Texas 77096  
85896 - Namrata Subramanian, 1628 Sutton St., Houston, Texas 77006  
86478 - Jonathan Mullins, 13166 Kestrel Avenue, Horizon City, Texas 79928  
65781 - Shawn Nicole Thierry, 3359 Charleston, Houston, Texas 77021  
86406 - Rebecca Garcia, 5350 Fossil Creek Blvd 115, Fort Worth, Texas 76137  
86251 - Christian V. Hayes, 3801 Turtlecreek Dr., Port Arthur, Texas 77642  
83944 - Aurelia J. Wagner, 3100 Cleburne 1568, Houston, Texas 77004  
69780 - Sandra Crenshaw, P.O. Box 224123, Dallas, Texas 75222  
85324 - Tristian T.D. Sanders, 5605 Siltstone Loop, Killeen, Texas 76542  
86508 - Gary Fitzsimmons, 1919 Ferndale Ave, Dallas, Texas 75224  
86210 - Jake Collier, 248 E. Southwest Pkwy., Lewisville, Texas 75067  
85925 - Frankie M. Adler, 1504 Joshua Ct., Keller, Texas 76248  
84539 - Larry McKinzie, 3930 Porter St., Houston, Texas 77021  
83916 - The Estate of William Shane Nolen, 8924 Ashcraft Drive, North Richland Hills, Texas 76182  
86465 - Meredith Chacon, 110 Broadway St #380, San Antonio, Texas 78205  
86470 - Tim Cariker, Panola County Judicial Ctr, Ste 301, Carthage, Texas 75633  
86413 - Martha M. Gutierrez, 1110 S Caldwell St., Falfurrias, Texas 78355  
86242 - Marquis L. Hawkins, 123 E. Woodin Blvd., Dallas, Texas 75216  
86280 - John Harvey Slocum, 1116 Patriot Drive, College Station, Texas 77845  
86296 - Cary G. Moon, 5016 Exposition Way, Fort Worth, Texas 76244  
86302 - Valerie McGilvrey, 2403 Goldspring Ln., Spring, Texas 77373  
86183 - Casey L. Gray, 2416 Stoner Rd., Odessa, Texas 79764  
86341 - Alberto A. Dominguez, P.O. Box 131861, Houston, Texas 77019  
86321 - Natalie N. Kohn, 5232 Apache Plume #14323, Fort Worth, Texas 76109  
86241 - Alfred Molison, 7623 Candlegreen Ln., Houston, Texas 77071  
69827 - Demetra Jefferson-Wysinger, 3700 Reese Drive, Dallas, Texas 75238  
86485 - Jeremy Joseph Rios, 26998 Hogan Dr, San Antonio, Texas 78260  
86492 - Reginald E. Jennings, 8436 Kincaid Ln, Frisco, Texas 75036  
86500 - Deauc Nash Dentaen, 2050 Aspen Glade Dr, Kingwood, Texas 77339  
80604 - Fidel Castillo, P.O. Box 17271, San Antonio, Texas 78217  
85447 - Desarae Lindsey, 1104 Holiday Drive, Tool, Texas 75143  
86355 - Brandon J. Snedeker Sr., 126 Indian Grass Drive, New Braunfels, Texas 78130  
82307 - Arnoldo A. Alonzo, 3719 Rey David, Brownsville, Texas 78521  
**Deadline: Personal Financial Statement due April 4, 2022**  
84555 - Todd A. Williams, 3889 Maple Ave., Ste. 350, Dallas, Texas 75219  
**Deadline: Personal Financial Statement due May 2, 2022**  
21043 - Melvin K. Sims, 526 Ave U, Shallowater, Texas 79363  
82214 - Kimberly N. Haynes DMD, 2201 Lookout Knoll Dr, Leander, Texas 78641  
86675 - Juan Carlos Del Angel, 2307 Silverado S., Mission, Texas 78573  
83645 - Albert H. Myres, 288 FM 770 N, Liberty, Texas 77575  
82606 - Colette P. Walls, 4301 CR 1525, Odem, Texas 78370  
84898 - John D. Scholl III, P.O. Box 162, Claude, Texas 79019  
84188 - Tamara G. Rhodes, 6703 Stoneham Dr., Amarillo, Texas 79109  
84809 - Brandon M. Allen, 800 Embassy Dr. #117, Austin, Texas 78702  
83589 - Janet Hoffman, 2907 Beluche Dr., Galveston, Texas 77551  
80755 - Justin Tucker, 1305 E 17th, Cameron, Texas 76520  
83840 - Jason Ray Denny, 2941 Sussex Gardens Ln., Austin, Texas 78748  
68859 - Emily F. Cutrer, 8902 Sundance Ridge, Texarkana, Texas 75503  
80420 - Frank J. Castro, P.O. Box 592251, San Antonio, Texas 78259  
85322 - Chris Hartung, 3808 Woodvine Dr., Euless, Texas 76040  
87926 - Regina Compian Richardson, 3525 W. Freddy Gonzalez, Suite C, Edinburg, Texas 78539  
85489 - Maribel Diaz, 1405 Encantado Circle, Palmview, Texas 78572  
41097 - Eduardo R. Rodriguez, 1610 Garden St., Austin, Texas 78702  
83622 - Chad Foster Jr., 104 N East St, Uvalde, Texas 78801  
82021 - Michael Williams, 4819 Carmel Pl., Colleyville, Texas 76034  
83417 - Traci G. LaChance, P.O. Box 102, Danbury, Texas 77534



86525 - Megan Lavoie, P.O. Box 12066, Austin, Texas 78711  
65829 - Mark G. Daniel, City Center 301 Commerce St., Ste. 2001, Fort Worth, Texas 76102

65528 - Kimberly Anne Blackmon, 2414 Warner Road, Fort Worth, Texas 76110

83726 - Charles Ring, 15410 CR 600, Sinton, Texas 78387

53248 - Dan S. Leyendecker, 801 Navigation, Ste. 300, Corpus Christi, Texas 78408

66569 - Rich Gray, 200 Technology Way, Ste. 1162, College Station, Texas 77845

70738 - Anumeha Kumar, 11521 Lakestone Dr., Bee Cave, Texas 78738

86751 - Amy Cardona, 7805 Manassas Drive, Austin, Texas 78745

85522 - Timothy L. Smith, 10216 CR 6740, Lubbock, Texas 79407

55939 - Paul Foster, 123 W. Mills Ave., Ste. 600, El Paso, Texas 79901

80208 - Gilbert Burciaga, 3734 Hunterwood Pt., Austin, Texas 78746

82870 - Roberto D. Martinez M.D., 2809 Santa Lydia, Mission, Texas 78572

83339 - Courtney Boswell MacDonald, 1219 Virginia Drive, Kerrville, Texas 78028

84244 - Scott Gordon, President's Office, SFASU P.O. Box 6078 SFA Station, Nacogdoches, Texas 75962

84502 - Cesar Rodriguez Jr., 2020 W. 30th Street, Mission, Texas 78574

85492 - Nicholas LaMantia, 6949 Market Ave, El Paso, Texas 79915

85493 - Marco Zaragoza, 303 N Oregon St., Ste. 1020, El Paso, Texas 79901

85603 - Rex W. Gore, 4825 Eagle Feather Dr., Austin, Texas 78735

85690 - Charles Tatton, P.O. Box 105, Tivoli, Texas 77990

52600 - Stacey Silverman Ph.D, THECB P.O. Box 12788, Austin, Texas 78711

**Deadline: Personal Financial Statement due May 30, 2022**

83745 - Jeffrey W. Allison, 1705 Du Barry Ln, Houston, Texas 77018

**Deadline: Personal Financial Statement due June 3, 2022**

86711 - Jon E. Mogford Ph.D, Texas A&M Health, 1122 TAMUS, Bryan, Texas 77801

**Deadline: Personal Financial Statement due July 1, 2022**

83237 - Sylvia L. Guzman, 16 Sammy Snead, PMB-1913, Hilltop Lakes, Texas 77871

**Deadline: Personal Financial Statement due July 26, 2022**

86851 - Stephany Trotti, 605 Thormeyer Rd., Sequin, Texas 78155

**Deadline: Personal Financial Statement due August 2, 2022**

86852 - Hector Retta, 2601 N Lamar, Ste. 201, Austin, Texas 78705

**Deadline: Personal Financial Statement due October 19, 2022**

86902 - Sarah C. Lamb, 5630 Willis Ave., Dallas, Texas 75214

86996 - Kathi Arocha, 3215 Greenbrook Drive, Arlington, Texas 76016

**Deadline: Personal Financial Statement due December 26, 2022**

86700 - James Johnston Ph.D, 3410 Taft Blvd, Wichita Falls, Texas 76308

**Deadline: Personal Financial Statement due March 27, 2023**

87417 - Daymon Jeffrey Rambin, P.O. Box 344, Nash, Texas 75569

**Deadline: Personal Financial Statement due April 3, 2023**

65318 - Scott K. Field, 405 Martin Luther King Blvd, Georgetown, Texas 78626

**Deadline: Personal Financial Statement due April 17, 2023**

87434 - Tiffany White, P.O. Box 12577, Austin, Texas 78711

**Deadline: Personal Financial Statement due May 1, 2023**

82870 - Roberto D. Martinez M.D., 2809 Santa Lydia, Mission, Texas 78572

84244 - Scott Gordon, President's Office, SFASU P.O. Box 6078 SFA Station, Nacogdoches, Texas 75962

55939 - Paul Foster, 123 W. Mills Ave., Ste. 600, El Paso, Texas 79901

**Deadline: Personal Financial Statement due May 18, 2023**

69563 - Wan-Yu Elisa Chan, 2431 E. Evans Rd., San Antonio, Texas 78258

**Deadline: Personal Financial Statement due June 30, 2023**

80276 - Lynn D. Stucky, 5885 Canyon Rd., Sanger, Texas 76266

86370 - John W. Bryant, 5915 Swiss Avenue, Dallas, Texas 75214

**Deadline: Personal Financial Statement due July 28, 2023**

87785 - Christopher Popov, 845 Texas Ave., Ste 4700, Houston, Texas 77002

**Deadline: Personal Financial Statement due September 15, 2023**

88558 - Joe Elabd, 3126 TAMU, College Station, Texas 77843

**Deadline: Personal Financial Statement due September 22, 2023**

87903 - Darren Schlosser, 7907 Stratford Hall Drive, Rosharon, Texas 77583

**Deadline: Personal Financial Statement due October 2, 2023**

87925 - William L. Doggett, 9111 North Freeway, Houston, Texas 77037

84378 - George J. Wise, 13203 Valley Cir., College Station, Texas 77845

**Deadline: Personal Financial Statement due October 6, 2023**

87403 - Robert Misso III, 110 Wittera Way, Georgetown, Texas 78726

**Deadline: Personal Financial Statement due November 2, 2023**

87712 - Krista Schild, 5019 Duran Dr., Royce City, Texas 75098

TRD-202402788

Aidan Shaughnessy

Program Supervisor

Texas Ethics Commission

Filed: June 25, 2024

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**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 June 17, 2024 to June 21, 2024. 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, June 28, 2024. The public comment period for this project will close at 5:00 p.m. on Sunday July 28, 2024.

Federal License and Permit Activities:

**Applicant:** Port of Corpus Christi Authority (PCCA)

**Location:** The project site is located along the north bank of the Corpus Christi Ship Channel (CCSC) Inner Harbor (IH), at the PCCA Bulk Materials Docks (BDs) 1 and 2.

**Latitude and Longitude:** 27.820516, -97.474721

**Project Description:** The applicant proposes to excavate approximately 2,368,030 cubic yards (cy) of unvegetated water bottom, replace outdated and degraded infrastructure, install new sheet pile bulkhead above the high tide line (HTL), and construct new docks associated with a multi-phase terminal expansion to create 4,403 linear feet of continuous wharf. Work will include the following: Phase I - installation of 364 - 60-inch (in) steel piles to support a 700-foot-long by 100-foot-wide concrete dock and dredging approximately 866,000 cy of material to attain a 3:1 channel bottom slope; Phase II - removal of 50 previously authorized steel pipe piles and catwalks at BD 1; Phase III - installation of 1,308 60-in steel piles to support a 2,515 foot-long by 100-foot-wide concrete dock and dredging approximately 823,400 cy of material to attain a 3:1 channel bottom slope; and Phase IV - installation of 618 - 60-in steel pipe piles to support a 1,188 foot-long by 100-foot-wide concrete dock and dredging approximately 678,630 cy of material to attain a 3:1 channel bottom slope. Dredging will occur via hydraulic dredging and material will be placed in one or more of the following dredge material placement areas (DMPAs) - Sun Tide DMPA, Tule Lake DMPA No.6, Southshore DMPA Cells A and B, Herbie A. Mourer DMPA, and DMPA No. 1. The applicant has not proposed compensatory mitigation as the proposed project does not impact wetlands and does not result in a loss of waters of the U.S.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2019-00741. 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:** 24-1278-F1

**Applicant:** Texas General Land Office

**Location:** The Regional General Permit (RGP) is limited to the Gulf of Mexico, within the regulatory jurisdiction of the Galveston District excluding Louisiana waters, at various public beach locations along the Texas Gulf Coast.

**Project Description:** This single user RGP authorizes the GLO to perform beach nourishment activities along public, Gulf-facing beaches that are currently or historically critically eroding; specifically, Gulf-

facing beaches that are accessible by public road or ferry and have a public beach easement experiencing greater than 2 feet of erosion per year. The RGP is intended to provide authorization for nourishment projects only on the public beach easement. Beach quality sand will be placed along the public beach front for beach nourishment. The discharge of beach quality sand within the project area will create a more stable shoreline, reduce erosion, provide greater environmental and economic benefits, and improve resilience. Eligible RGP activities will either be classified as RGP standard maintenance nourishment or RGP storm response nourishment with their own separate eligibility criteria. RGP standard maintenance nourishment activities will occur on areas that do not currently have an individual permit (IP) for beach nourishment. RGP storm response nourishment may occur at any publicly accessible beach, regardless of whether authorized by an IP or not, based upon a post-storm assessment either using light detection and ranging (LIDAR) elevation data or aerial imagery to demonstrate a substantial erosive event to the shoreline (10 feet or greater loss). This RGP may not be used to authorize the placement of material landward of the south toe of the dune. To be eligible for the RGP, all practicable steps must be followed to avoid and minimize adverse effects to waters of the United States (WOUS) to ensure that the regulated activity results in no more than minimal adverse environmental effects or will not be contrary to the public interest.

Areas without a public beach easement or access by a public road or public ferry will be excluded. There are 12 counties with Gulf-facing beaches along the Texas coast. Aransas County lacks a public beach easement (San Jose Island) and both Calhoun County (Matagorda Island) and a portion of Matagorda County (from the mouth of the Colorado River west towards the Matagorda Ship Channel) lack public access via a public road or ferry; therefore, these areas are not included in this RGP. The remaining 10 counties included in this RGP are Brazoria, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, and Willacy Counties.

**RGP RESTRICTIONS:** This general permit does not authorize - Work on private property; nourishment projects on beaches without public access; any work that may damage dunes or dune vegetation; work associated with the Corps Coastal Texas Program; the use of non-beach quality sand, and other sediments or material not suitable for beach nourishment; the discharge of fill material within wetlands, seagrass or submerged aquatic vegetation (SAV).

The applicant does not propose compensatory mitigation for this project, as this is a shoreline restoration/nourishment activity and provides storm risk management benefits and improved habitat.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2023-00688. 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:** 24-1280-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](mailto: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](mailto:federal.consistency@glo.texas.gov).

TRD-202402779

Mark Havens  
Chief Clerk  
General Land Office  
Filed: June 25, 2024

◆ ◆ ◆  
**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 transmittal number 24-0018 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to create a new temporary non-preferred prior authorization (PA) requirement for certain new-to-market drugs newly added to the Vendor Drug Program (VDP) formulary. HHSC would apply this requirement when the drug is added to the formulary and prior to the Drug Utilization Review Board's review. This requirement would apply only to new-to-market drugs that belong in an existing preferred drug list (PDL) class or subclass. Today, when HHSC adds a drug to the formulary, it is available without a PDL PA until the Drug Utilization Review Board reviews the drug. HHSC is implementing this change as a result of Texas Government Code Section 531.072(h) as added by House Bill 3286, 88th Texas Legislature. The proposed amendment is effective September 1, 2025.

To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; or by email at [Medicaid\\_Chip\\_SPA\\_Inquiries@hhsc.state.tx.us](mailto:Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us). The Access and Eligibility Services for local benefit offices will post and have copies of the amendment available for review.

TRD-202402794  
Karen Ray  
Chief Counsel  
Texas Health and Human Services Commission  
Filed: June 26, 2024

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**Texas Lottery Commission**

**Scratch Ticket Game Number 2584 "BINGO TIMES 20"**

**1.0 Name and Style of Scratch Ticket Game.**

A. The name of Scratch Ticket Game No. 2584 is "BINGO TIMES 20". The play style is "bingo".

**1.1 Price of Scratch Ticket Game.**

A. The price for Scratch Ticket Game No. 2584 shall be \$5.00 per Scratch Ticket.

**1.2 Definitions in Scratch Ticket Game No. 2584.**

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: CHERRY SYMBOL, DIAMOND SYMBOL, HORSESHOE SYMBOL, SAIL-BOAT SYMBOL, ANCHOR SYMBOL, WATERMELON SYMBOL, MONEY BAG SYMBOL, GOLD BAR SYMBOL, HEART SYMBOL, STAR SYMBOL, B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 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, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, FREE SYMBOL and X20 SYMBOL.

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. Crossword and Bingo style games do not typically have Play Symbol captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2584 - 1.2D

PLAY SYMBOL	CAPTION
CHERRY SYMBOL	CHERRY
DIAMOND SYMBOL	DIAMND
HORSESHOE SYMBOL	HRSHOE
SAILBOAT SYMBOL	BOAT
ANCHOR SYMBOL	ANCHOR
WATERMELON SYMBOL	WTRMLN
MONEY BAG SYMBOL	BAG
GOLD BAR SYMBOL	BAR
HEART SYMBOL	HEART
STAR SYMBOL	STAR
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
B14	
B15	
I16	
I17	

I18	
I19	
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FREE SYMBOL	
X20 SYMBOL	

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 (2584), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2584-0000001-001.

H. Pack - A Pack of the "BINGO TIMES 20" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 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 075 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BINGO TIMES 20" Scratch Ticket Game No. 2584.

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 "BINGO TIMES 20" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose the Play Symbols as indicated per the game instructions from the total one hundred eighty-one (181) Play Sym-

bolds. BINGO TIMES 20 PLAY INSTRUCTIONS: The player completely scratches the "CALLER'S CARD" area and the "5 BONUS NUMBERS" area to reveal a total of twenty-nine (29) Bingo Numbers. The player scratches only those Bingo Numbers on the six (6) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers and the "5 BONUS NUMBERS" Bingo Numbers. The player also scratches the "X20" spaces and the "FREE" spaces on the six (6) "BINGO CARDS". If a player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line (five (5) Bingo Numbers, four (4) Bingo Numbers + "FREE" space, four (4) Bingo Numbers + "X20" space, or three (3) Bingo Numbers + "X20" space + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers in all four (4) corners, the player wins the prize in the corresponding prize legend for that "BINGO CARD". If the player matches all Bingo Numbers to complete an "X" (eight (8) Bingo Numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD". X20 PLAY INSTRUCTIONS: If a completed LINE pattern in any of the six (6) "BINGO CARDS" contains a "X20" symbol, the player wins 20 TIMES the LINE prize in the corresponding prize legend for that "BINGO CARD". Note: Only the highest prize per "BINGO CARD" will be paid. BONUS GAME PLAY INSTRUCTIONS: If the player reveals 2 matching Play Symbols in the BONUS GAME, the player wins \$20. 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 one hundred eighty-one (181) 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. Crossword and Bingo style games do not typically have Play Symbol captions;
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 one hundred eighty-one (181) 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 one hundred eighty-one (181) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the one hundred eighty-one (181) 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: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to six (6) times.

D. BONUS GAME: Winning Tickets will contain two (2) matching Play Symbols in the "BONUS GAME" play area and will win as per the prize structure.

E. BINGO: The number range used for each letter (B, I, N, G, O) will be as follows: B (1-15), I (16-30), N (31-45), G (46-60) and O (61-75).

F. BINGO: On winning and Non-Winning Tickets, there will be no matching "CALLER'S CARD" or "BONUS NUMBERS" Play Symbols.

G. BINGO: Each of the "CALLER'S CARD" and "BONUS NUMBERS" Play Symbols will appear on at least one (1) of the six (6) "BINGO CARDS".

H. BINGO: Each "BINGO CARD" will contain twenty-three (23) numbers, one (1) "FREE" Play Symbol fixed in the center of the CARD and one (1) "X20" Play Symbol.

I. BINGO: The "I20" CALLER'S CARD and 5 BONUS NUMBERS Play Symbol will never appear in the "CALLER'S CARD" or the "5 BONUS NUMBERS" play areas.

J. BINGO: The "20" BINGO CARDS Play Symbol will never appear on a "BINGO CARD".

K. BINGO: There will be no matching Play Symbols on each "BINGO CARD" play area.

L. BINGO: The "X20" Play Symbol will appear once per "BINGO CARD" but will never appear in a corner or inside the "X" pattern of a "BINGO CARD".

M. BINGO: The "X20" Play Symbol will win 20 TIMES the prize and will win as per the prize structure.

N. BINGO: Prizes for "BINGO CARDS" 1-6 are as follows:

CARD 1: LINE=\$5. 4 CORNERS=\$20. X=\$100.

CARD 2: LINE=\$10. 4 CORNERS=\$25. X=\$200.

CARD 3: LINE=\$15. 4 CORNERS=\$50. X=\$400.

CARD 4: LINE=\$20. 4 CORNERS=\$100. X=\$500.

CARD 5: LINE=\$25. 4 CORNERS=\$300. X=\$1,000.

CARD 6: LINE=\$50. 4 CORNERS=\$500. X=\$100,000.

O. BINGO: Each "BINGO CARD" on a Ticket will be different. Two (2) cards match if they have the same number Play Symbols in the same spots.

P. BINGO: Non-winning "BINGO CARDS" will match a minimum of three (3) number Play Symbols.

Q. BINGO: There can only be one (1) winning pattern on each "BINGO CARD".

### 2.3 Procedure for Claiming Prizes.

A. To claim a "BINGO TIMES 20" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$200, \$300, \$400 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$30.00, \$50.00, \$100, \$200, \$300, \$400 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 "BINGO TIMES 20" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting

form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BINGO TIMES 20" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "BINGO TIMES 20" 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 "BINGO TIMES 20" 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 17,280,000 Scratch Tickets in Scratch Ticket Game No. 2584. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2584 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	1,728,000	10.00
\$10.00	806,400	21.43
\$15.00	403,200	42.86
\$20.00	345,600	50.00
\$25.00	345,600	50.00
\$30.00	115,200	150.00
\$50.00	148,800	116.13
\$100	52,992	326.09
\$200	3,504	4,931.51
\$300	2,016	8,571.43
\$400	1,680	10,285.71
\$500	1,392	12,413.79
\$1,000	336	51,428.57
\$100,000	8	2,160,000.00

\*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 4.37. 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. 2584 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. 2584, 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-202402778  
Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: June 25, 2024



## North Central Texas Council of Governments

### Request for Proposals for In-Plant Bus Inspection Service

The North Central Texas Council of Governments (NCTCOG) serves as the designated recipient of Federal Transit Administration (FTA) Program funds for the Dallas-Fort Worth-Arlington and the Denton-Lewisville Urbanized Areas. NCTCOG has been awarded funds from the Fiscal Year 2021 Federal Grant Program Rebuilding America's Infrastructure with Sustainability and Equity (RAISE) Grant Program for the purchase of vehicles to enhance bus service in the Southern Inland Port. NCTCOG is requesting written proposals from qualified vendors(s) to provide in-plant inspection service in Elkhart, Indiana for 8 light-duty electric buses and 19 light-duty transit buses.

Proposals must be received no later than 5:00 p.m., Central Time, on **Friday, August 2, 2024**, to Bobby Gomez, Transportation Planner III, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011 and electronic submissions to [TransRFPs@nctcog.org](mailto:TransRFPs@nctcog.org). The Request for Proposals will be available at [www.nctcog.org/rfp](http://www.nctcog.org/rfp) by the close of business on **Friday, July 5, 2024**.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202402795  
R. Michael Eastland  
Executive Director  
North Central Texas Council of Governments  
Filed: June 26, 2024



## Texas Department of Transportation

### Public Hearing Notice - Unified Transportation Program

The Texas Department of Transportation (department) will hold a virtual public hearing on Wednesday, July 31, 2024 at 2:00 p.m. Central Daylight Time (CDT) via electronic means. Instructions for accessing the hearing will be published on the department's website

at: <https://www.txdot.gov/projects/planning/utp/utp-public-involvement.html>. The purpose of the hearing is to receive public input on the development of the 2025 Unified Transportation Program (UTP), including the highway project selection process related to the UTP.

Transportation Code, §201.991 provides that the department shall develop a UTP covering a period of 10 years to guide the development and authorize construction of transportation projects. Transportation Code, §201.602 requires the Texas Transportation Commission (commission) to annually conduct a hearing on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions. The commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which include guidance regarding public involvement related to the project selection process and the development of the UTP.

Information regarding the 2025 UTP and highway project selection process will be available on the department's website at: <https://www.txdot.gov/projects/planning/utp.html>.

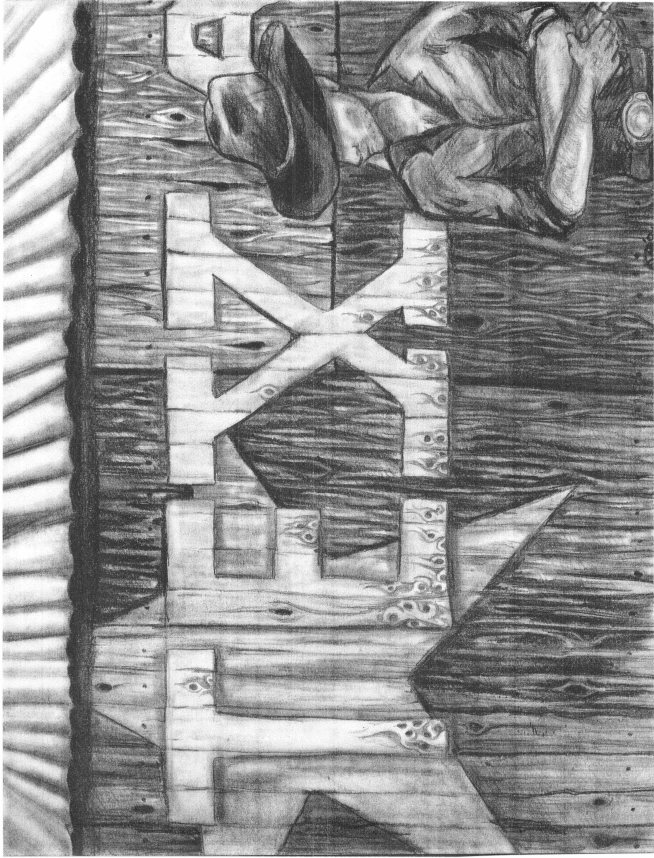
Persons wishing to speak at the hearing may register in advance by notifying the Transportation Planning and Programming Division at (800) 687-8108 no later than Friday, July 26, 2024. Speakers will be taken in the order registered and will be limited to three minutes. Speakers who do not register in advance will be taken at the end of the hearing. Any interested person may offer comments or testimony; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony.

The public hearing will be conducted in English. Persons who have special communication or accommodation needs and who plan to participate are encouraged to contact the Transportation Planning and Programming Division at (800) 687-8108. Requests should be made at least three working days prior to the public hearing. Every reasonable effort will be made to accommodate these needs.

Interested parties who are unable to participate may submit written comments regarding the proposed 2025 UTP to the Texas Department of Transportation, Attention: TPP-UTP, 125 E 11th Street, Austin, Texas 78701. Interested parties may also submit comments by e-mail to [UTP-PublicComments@txdot.gov](mailto:UTP-PublicComments@txdot.gov), phone at (800) 433-4842, or through the online options that will be available on the department's website at: <https://www.txdot.gov/projects/planning/utp/utp-public-involvement.html>. In order to be considered, comments must be received by 4:00 p.m. CDT on Monday, August 5, 2024.

TRD-202402703  
Angie Parker  
Senior General Counsel  
Texas Department of Transportation  
Filed: June 20, 2024





## January - December 2025 Publication Schedule

Filing deadlines for publication in the *Texas Register* are 12 noon Monday for rules and 12 noon Wednesday for miscellaneous documents, rule review notices, and other documents. These deadlines are for publication. **They are not related to posting requirements for open meeting notices.** Because of printing and mailing schedules, documents received after the deadline for an issue cannot be published until the next issue. An asterisk beside a publication date indicates that the deadlines are early due to state holidays.

<b>Issue Date</b>	<b>Deadline for rules by 12 noon</b>	<b>Deadline for other documents by 12 noon</b>
January 3, 2025	<i>Friday, December 20, 2024*</i>	<i>Friday, December 20, 2024*</i>
January 10, 2025	<i>Monday, December 30, 2024*</i>	<i>Monday, December 30, 2024*</i>
January 10, 2025	<i>2025 Annual Index</i>	
January 17, 2025	Monday, January 6, 2025	Wednesday, January 8, 2025
January 24, 2025	Monday, January 13, 2025	Wednesday January 15, 2025
January 31, 2025	<i>Friday, January 17, 2025*</i>	Wednesday, January 22, 2025
February 7, 2025	Monday, January 27, 2025	Wednesday, January 29, 2025
February 14, 2025	Monday, February 3, 2025	Wednesday, February 5, 2025
February 21, 2025	Monday, February 10, 2025	Wednesday, February 12, 2025
February 28, 2025	<i>Friday, February 14, 2025*</i>	Wednesday, February 19, 2025
March 7, 2025	Monday, February 24, 2025	Wednesday, February 26, 2025
March 14, 2025	Monday, March 3, 2025	Wednesday, March 5, 2025
March 21, 2025	Monday, March 10, 2025	Wednesday, March 12, 2025
March 28, 2025	Monday, March 17, 2025	Wednesday, March 19, 2025
April 4, 2025	Monday, March 24, 2025	Wednesday, March 26, 2025
<i>April 4, 2025</i>	<i>2025 First Quarterly Index</i>	
April 11, 2025	Monday, March 31, 2025	Wednesday, April 2, 2025
April 18, 2025	Monday, April 7, 2025	Wednesday, April 9, 2025
April 25, 2025	Monday, April 14, 2025	Wednesday, April 16, 2025
May 2, 2025	Monday, April 21, 2025	Wednesday, April 23, 2025
May 9, 2025	Monday, April 28, 2025	Wednesday, April 30, 2025
May 16, 2025	Monday, May 5, 2025	Wednesday, May 7, 2025
May 23, 2025	Monday, May 12, 2025	Wednesday, May 14, 2025
May 30, 2025	Monday, May 19, 2025	Wednesday, May 21, 2025
June 6, 2025	<i>Friday, May 23, 2025*</i>	Wednesday, May 28, 2025
June 13, 2025	Monday, June 2, 2025	Wednesday, June 4, 2025
June 20, 2025	Monday, June 9, 2025	Wednesday, June 11, 2025
June 27, 2025	Monday, June 16, 2025	Wednesday, June 18, 2025
July 4, 2025	Monday, June 23, 2025	Wednesday June 25, 2025

<i>July 4, 2025</i>	<i>2025 Second Quarterly Index</i>	
July 11, 2025	Monday, June 30, 2025	Wednesday, July 2, 2025
July 18, 2025	Monday, July 7, 2025	Wednesday, July 9, 2025
July 25, 2025	Monday, July 14, 2025	Wednesday, July 16, 2025
August 1, 2025	Monday, July 21, 2025	Wednesday, July 23, 2025
August 8, 2025	Monday, July 28, 2025	Wednesday, July 30, 2025
August 15, 2025	Monday, August 4, 2025	Wednesday, August 6, 2025
August 22, 2025	Monday, August 11, 2025	Wednesday, August 13, 2025
August 29, 2025	Monday, August 18, 2025	Wednesday, August 20, 2025
September 5, 2025	Monday, August 25, 2025	Wednesday, August 27, 2025
September 12, 2025	<i>Friday, August 29, 2025*</i>	Wednesday, September 3, 2025
September 19, 2025	Monday, September 8, 2025	Wednesday, September 10, 2025
September 26, 2025	Monday September 15, 2025	Wednesday, September 17, 2025
October 3, 2025	Monday, September 22, 2025	Wednesday, September 24, 2025
October 3, 2025	<i>2025 Third Quarterly Index</i>	
October 10, 2025	Monday, September 29, 2025	Wednesday, October 1, 2025
October 17, 2025	Monday, October 6, 2025	Wednesday, October 8, 2025
October 24, 2025	Monday, October 20, 2025	Wednesday, October 22, 2025
October 31, 2025	Monday, October 20, 2025	Wednesday, October 22, 2025
November 7, 2025	Monday, October 27, 2025	Wednesday, October 29, 2025
November 14, 2025	Monday, November 3, 2025	Wednesday, November 5, 2025
November 21, 2025	Monday, November 10, 2025	Wednesday, November 12, 2025
November 28, 2025	Monday, November 17, 2025	Wednesday, November 19, 2025
December 5, 2025	<i>Friday, November 21, 2025*</i>	<i>Friday, November 21, 2025*</i>
December 12, 2025	Monday, December 1, 2025	Wednesday, December 3, 2025
December 19, 2025	Monday, December 8, 2025	Wednesday, December 10, 2025
December 26, 2025	Monday, December 15, 2025	Wednesday, December 17, 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 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

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 “49 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 49 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: <http://www.sos.state.tx.us>. 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
26. Health and Human 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 §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 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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