ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER O. DELIVERY SYSTEM AND PROVIDER PAYMENT INITIATIVES

1 TAC §353.1311

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §353.1311, concerning Quality Metrics for the Texas Incentives for Physicians and Professional Services Program.

The amendment to §353.1311 is adopted without changes to the proposed text as published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5223) and, therefore, will not be republished.

BACKGROUND AND JUSTIFICATION

Each directed payment program (DPP) has a quality rule and financial rule. Effective January 28, 2024, HHSC amended the Texas Incentives for Physicians and Professional Services (TIPPS) financial rule, §353.1309, to add a pay-for-performance component to TIPPS beginning with state fiscal year 2026.

The adoption of amended §353.1311, the TIPPS quality rule, implements the quality reporting necessary for the pay-for-performance component of the TIPPS financial rule. The adopted amendment also makes non-substantive changes to the text of the rule to make the TIPPS quality rule mirror the quality rules for other DPPs.

COMMENTS

The 31-day comment period ended August 19, 2024.

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

STATUTORY AUTHORITY

The adoption of the amendment is authorized by Texas Government Code §531.033, which provides the Executive Commissioner with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §533.002, which authorizes HHSC to implement the Medicaid managed care 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 October 24, 2024.

TRD-202404970
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: November 13, 2024
Proposal publication date: July 19, 2024
For further information, please call: (512) 438-2910

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TITLE 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 84. MOTOR VEHICLE INSTALLMENT SALES

The Finance Commission of Texas (commission) adopts amendments to §84.602 (relating to Filing of New Application), §84.608 (relating to Processing of Application), §84.611 (relating to Fees), §84.613 (relating to Denial, Suspension, or Revocation Based on Criminal History), §84.616 (relating to License Display), §84.617 (relating to License Term, Renewal, and Expiration), §84.705 (relating to Unclaimed Funds), §84.707 (relating to Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)), §84.708 (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)), §84.709 (relating to Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)), §84.802 (relating to Non-Standard Contract Filing Procedures), §84.806 (relating to Format), §84.808 (relating to Model Clauses), and §84.809 (relating to Model Contract); and adopts new §84.710 (relating to Annual Report) in 7 TAC Chapter 84, concerning Motor Vehicle Installment Sales.

The commission adopts the amendments to §§84.608, 84.611, 84.613, 84.616, 84.617, 84.705, 84.802, 84.806, 84.808, and 84.809 and adopts new §84.710 without changes to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6535) and will not be republished.

The commission adopts the amendments to §§84.602, 84.707, 84.708, and 84.709 with changes to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6535) and will be republished.

The commission received two official comments on the proposed amendments. The comments were from the Texas Automo-

bile Dealers Association (TADA) and the Texas Independent Automobile Dealers Association (TIADA). Both comments recommended changes to certain rule sections in the proposed amendments. The commission's responses to the comments are discussed later in this preamble.

The rules in 7 TAC Chapter 84 govern motor vehicle retail installment transactions. In general, the purpose of the rule changes to 7 TAC Chapter 84 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 84 was published in the *Texas Register* on May 31, 2024 (49 TexReg 3937). The commission received no official comments in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received one informal precomment on the rule text draft.

Amendments to §84.602 update requirements for filing a new motor vehicle sales finance license application. Currently, §84.602(1)(A)(ii) requires a license application to identify a "responsible person" with substantial management responsibility for each proposed office. The adoption would replace the "responsible person" requirement in §84.602(1)(A)(ii) with a requirement to list a "compliance officer," who must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC. The amendment will enable businesses to identify an individual who can be contacted on a company-wide basis. The amendment is intended to ensure that each business lists an individual who can be contacted about compliance issues. In addition, an amendment to §84.602(2)(A)(v) removes language suggesting that license applicants send fingerprints directly to the OCCC. Currently, license applicants submit fingerprints through a party approved by the Texas Department of Public Safety.

In its official comment, TADA requests that the commission add the phrase "regarding the OCCC" after the statement that the compliance officer "must be an individual responsible for overseeing compliance." TADA notes that "some licensees have more than one person who is responsible for various aspects of compliance at the dealership, such as employment compliance, tax compliance, titling, and regulatory compliance." In response to this comment, a change has been made to the proposal to include the phrase "regarding the OCCC" in the amendment to §84.602(1)(A)(ii).

Amendments to §84.608 revise provisions governing the OCCC's denial of a motor vehicle sales finance license application. Under Texas Finance Code, §348.504(b), if the OCCC finds that a license applicant has not met the eligibility requirements for a license, then the OCCC will notify the applicant. Under Texas Finance Code, §348.504(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Amendments at §84.608(d) specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §348.504(b). Amendments at §84.608(e) revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas Finance Code, §348.504(c). These amendments will ensure consistency with the license application denial process in Texas Finance Code, §348.504. The amendments are consistent with the OCCC's current practice for notifying an applicant of the intent to deny a license application.

Amendments to §84.611 and new §84.710 relate to annual reports filed by licensees. Under Texas Finance Code, §14.107, §16.003, and §348.506, the commission and the OCCC are authorized to set fees for the OCCC to carry out its statutory functions. Current §84.611(e)(1)(C) authorizes the OCCC to collect a variable annual assessment based on the dollar volume of transactions reported by a licensee in an annual renewal statement. Current §84.611(e)(3) describes the content and filing of the annual renewal statement. The amendments move this requirement to new §84.710, redesignate the annual renewal statement as an "annual report," and specify a June 30 deadline for filing the report. The new section is similar to rules for other OCCC licensees filing annual reports, such as the current rule for pawnshops at §85.502 (relating to Annual Report). The OCCC anticipates that it will begin requiring annual reports under new §84.710 beginning in 2026.

Amendments to §84.613 relate to the OCCC's review of the criminal history of a motor vehicle applicant or licensee. The OCCC is authorized to review criminal history of applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.151; and Texas Government Code, §411.095. The amendments to §84.613 ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included a change to Texas Occupations Code, §53.022 relating to factors considered in determining whether an offense relates to the duties and responsibilities of the licensed occupation. Amendments to §84.613(c)(2) implement this statutory change from HB 1342.

Amendments to §84.616 make clarifying changes relating to license display. Currently, §84.616 requires a licensee to display its license prominently in a conspicuous location visible to the general public. The amendments clarify that this requirement applies if a licensed location or registered office is open to the general public, and does not apply to a location or office that is not open to the general public (e.g., a servicing or collection office that operates exclusively online or by phone).

An amendment to §84.617(e) specifies that the late filing fee for a registered office is $250, as provided by Texas Finance Code, §349.302. Another amendment removes current §84.617(f), which was a temporary provision that governed licenses obtained or renewed in 2019 or 2020.

Amendments to §84.705 make technical changes relating to the escheat of unclaimed funds. Amended text in §84.705(d) reflects that unclaimed funds are submitted to the Unclaimed Property Division of the Texas Comptroller of Public Accounts. Another amendment adds a reference to Texas Property Code, §74.301, in order to provide a more complete statutory reference for the requirement to pay unclaimed funds to the state after three years.

Amendments to §84.707 update recordkeeping requirements for retail sellers that assign motor vehicle retail installment contracts to another holder. Under Texas Finance Code, §348.514 and §348.517, licensees must maintain records of each motor vehicle retail installment transaction, and licensees must allow the OCCC to access records pertaining to retail installment transactions. Currently, provisions throughout §84.707 refer to both paper and electronic recordkeeping systems. Amendments throughout §84.707 simplify and rearrange this language to refer to electronic recordkeeping systems before referring to

paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Currently, §84.707(d)(1) requires licensees to be able to provide a retail installment sales transaction report containing the date of the contract, the retail buyer's name, the account number, and other information, and §84.707(d)(3) requires licensees to be able to provide an assignment report. Amendments at §84.707(d)(1) specify that licensees must be able to sort or filter the retail installment transaction report by date of the contract or sale, the retail buyer's name, the status of the transaction (open or closed), whether the transaction has been assigned to another person, and the name of any assignee. The OCCC understands that licensees generally have this information available in existing systems, and this information will help ensure that the OCCC can effectively examine licensees under Texas Finance Code, Chapter 348.

In its official comment, TADA states: "Those members contacted stated that sorting and filtering retail installment contracts by the date of the contract, the date of sale, the retail buyer's name, the status of the transaction, open or closed, are available; however, sorting or filtering by assignee and assignment was not a certainty by all members contacted." TADA suggests adding the phrase "if available" to the rule provision describing sorting or filtering by the name of the assignee. The commission disagrees with this comment. The comment does not explain how or why it would be problematic to sort or filter a transaction report by assignment information. Under current §84.707(d)(3), §84.708(e)(4), and §84.709(e)(4), licensees are already required to be able to produce an assignment report showing assigned contracts with the name and address of each assignee. The commission maintains this portion of the sorting and filtering provisions in the proposed amendments to §84.707(d)(1)(E), because the commission and the OCCC believe that this information is important for ensuring that the OCCC can effectively conduct examinations and scope risks.

In its official comment, TIADA states: "The rule should not require dealers with paper records reports to be able to sort or filter their records." TIADA states that it "is unaware of a commonly accepted method of sorting or filtering a paper records report." For this reason, TIADA recommends making a clarifying change, such as adding the phrase "Electronic records" before the phrase "Sorting or filtering." In response to this comment, a change has been made to the proposal to include the clarifying phrase "if a licensee maintains some or all transaction records electronically" in §84.707(d)(1)(E), §84.708(d)(3), and §84.709(d)(3).

Additional amendments to §84.707 relate to data security recordkeeping. An amendment at §84.707(d)(8) specifies that licensees must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another amendment at §84.707(d)(8) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. An amendment at §84.707(d)(9) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." A recent data breach affecting dealer management systems highlights the urgent need for vigilance in the motor vehicle sales finance industry. *See* "Car Dealerships in North America Revert to Pens and Paper After Cyberattacks on Software Provider" AP News (June 24, 2024). The data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

In its official comment, TADA states: "The new proposed examination rule to include the FTC's Safeguards Rule encompasses a WISP (written information security program) and as the rule is a federal requirement, its conformity and enforcement remains with the FTC. Verifying the WISP in an OCCC examination or providing suggestions may be helpful for a licensee; however, the enforcement of the WISP is with the FTC and a comment from the OCCC that the proposal is not for enforcement but to assist a licensee would be appreciated as to this new examination rule proposal."

The commission disagrees with this comment. Requiring motor vehicle dealers to maintain information security program records is consistent with Texas Finance Code, §348.514, which requires licensees to allow the OCCC to examine records pertaining to business regulated under Chapter 348 (i.e., motor vehicle retail installment transactions). An information security program directly pertains to the regulated business, because the program governs how a licensee will secure the information and records described by Chapter 348. Financial institutions (including motor vehicle dealers) are required to maintain a written information security program under the Safeguards Rule, 16 C.F.R. §314.3, and have been required to do so since the Safeguards Rule first went into effect in 2003. The requirement to maintain policies, procedures, and certain key documents, as described in the rule amendments, is a foundation for the OCCC to monitor and address the crucial issue of data security. For these reasons, the commission maintains the text of the data security recordkeeping amendments as proposed.

Amendments to §84.708 update recordkeeping requirements for retail sellers that collect payments on motor vehicle retail installment contracts. The amendments to §84.708 are similar to the amendments to §84.707 described in the previous six paragraphs. In particular, the amendments would simplify and rearrange language referring to electronic and paper recordkeeping systems, would specify requirements for sorting or filtering the retail installment sales transaction report, would specify requirements to maintain policies and procedures for an information security program, and would specify requirements to maintain data breach notifications. In addition, an amendment at §84.708(d)(3) specifies requirements for sorting or filtering the currently required alphabetical records search, similar to the requirements for the retail installment sales transaction report. Also, an amendment at §84.708(e)(2)(L)(ii)(V) removes a reference to the Texas Department of Public Safety's CR-2 crash report form and replaces this with a more general reference to "any law enforcement crash report form." The OCCC understands that the CR-2 form is no longer used for crash reports in Texas.

Amendments to §84.709 update recordkeeping requirements for holders that take assignment of motor vehicle retail installment contracts. The amendments to §84.709 are similar to the amendments to §84.707 and §84.708 described in the previous seven paragraphs. In particular, the amendments simplify and rearrange language referring to electronic and paper recordkeeping systems, specify requirements for sorting or filtering the alphabetical records search and retail installment

sales transaction report, replace a reference to the CR-2 crash report form with a more general reference, specify requirements to maintain policies and procedures for an information security program, and specify requirements to maintain data breach notifications.

Amendments to §84.802 reorganize and clarify the requirements for submitting non-standard plain language contracts. Under Texas Finance Code, §341.502(b), if a motor vehicle sales finance licensee uses a retail installment sales contract other than a model contract adopted by the commission, then the licensee must submit the contract to the OCCC for review. Currently, §84.802 describes the requirements for submitting these non-standard contracts to the OCCC. Under the adoption, subsection (a) will be amended to provide an up-front summary of the submission requirements, including the requirements under Texas Finance Code, §341.502. In particular, new paragraph (a)(3) specifies that non-standard loan contracts "must be consistent with Texas law and federal law." Currently, licensees are required to ensure that contracts comply with applicable law, and the OCCC's prescribed certification requires a person submitting a non-standard contract to certify compliance with state and federal law. If a contract contains illegal provisions, then the contract is misleading, and is not "easily understood by the average consumer" as required by Texas Finance Code, §341.502(a)(1). Before submitting a contract for review, licensees and form providers should work with their legal counsel and compliance staff to ensure that contracts comply with applicable law. Amendments to subsection (b) specify the grounds for disapproving a non-standard contract under Texas Finance Code, §341.502(c). These amendments replace language on the certification of readability, which will be moved into subsection (d). Amendments to subsection (c) specify that the subsection refers to the requirements for filing copies of the retail installment sales contract. Amendments to subsection (d) consolidate the rule's requirements for the submission form that must be submitted with the copies of the contract. The commission believes that it is helpful to reorganize these related requirements into a single subsection. The amendments to §84.802 are consistent with the commission's 2022 amendments to the rule for submitting non-standard regulated loan contracts at §90.104 (relating to Non-Standard Contract Filing Procedures).

Amendments to §84.806 update the list of typefaces that are considered easily readable for plain language contracts. Under Texas Finance Code, §341.502(a)(2), retail installment sales contracts must be "printed in an easily readable font and type size." Currently, §84.806(b) lists the following typefaces considered to be readable: Arial, Calibri, Caslon, Century Schoolbook, Garamond, Helvetica, Scala, and Times New Roman. The adoption revises this list to add Georgia and Verdana, and to remove Caslon, Century Schoolbook, Garamond, and Scala. Since the commission originally adopted §84.806 in 2008, electronic contracts and screen reading have changed how consumers view contracts. The amendments to §84.806 are based on updated guidance for accessibility and screen reading, including guidance from federal agencies on typefaces that are considered accessible. *See, e.g.*, U.S. Department of Health and Human Services, Research-Based Web Design and Usability Guidelines, p. 106; Centers for Medicare & Medicaid Services, Section 508 Guide for Microsoft Word 2013, p. 5 (rev. 2018). Other amendments throughout §84.806 add a descriptive title to each subsection. The amendments to §84.806 are consistent with the commission's 2022 amendments to the rule for formatting regulated loan contracts at §90.103 (relating to Format).

Amendments to §84.808 revise the model itemization of amount financed to refer to inspection program replacement fees and emissions inspection fees, following recent legislative changes. In 2023, the Texas Legislature passed HB 3297. HB 3297 repealed statutory provisions in Texas Transportation Code, Chapter 548 that generally required inspections for noncommercial vehicles. HB 3297 amended Texas Transportation Code, §548.509 and §548.510 to provide that an inspection program replacement fee will be remitted to the state. HB 3297 maintained existing provisions in Texas Health and Safety Code, Chapter 382 authorizing counties to require emissions inspections. HB 3297 will take effect on January 1, 2025. Amendments to the figures accompanying §84.808(8)(A) and (B) replace current references to the government inspection fee with lines for the inspection program replacement fee and the emissions inspection fee. Amendments to §84.808(8)(E) and (F) make conforming changes to the model clauses for inspection fees in the text of the rule. These changes will help ensure consistency with the amendments in HB 3297. The amendments to §84.808 will have a delayed effective date of January 1, 2025, to conform to the effective date of HB 3297. The OCCC does not intend to require licensees to resubmit non-standard plain language retail installment contracts that the OCCC has accepted since May 5, 2016. The clauses contained in §84.808 are model clauses, and licensees maintain some flexibility to disclose charges in a manner that is accurate and not misleading (e.g., disclosing the inspection program replacement fee on one of the extra lines in the "Other charges" section of the itemization of amount financed).

In its official comment, TADA requests clarification on how motor vehicle dealers may modify the model clauses in order to disclose fees correctly (e.g., whether a dealer may use the word "State" instead of "Government," whether a dealer may redact or cross out unused lines). These requests are generally outside the scope of the current rule action, which concerns the model clauses in §84.808. Use of the model clauses is optional. The model clauses do not restrict a licensee to using the exact same language. The OCCC may address these issues through informal advisory guidance. In general, the OCCC would recommend leaving unused clauses blank rather than crossing them out, because having dealership staff cross out provisions could lead to confusion or inconsistency.

In an informal precomment, an association of Texas motor vehicle dealers stated: "As to 7 TAC §84.808. Model Clauses, a request is that the disclosure 'Government vehicle inspection program replacement fee' be shortened, such as 'Gov't inspection replacement fee' or some similar disclosure that does not take so much real estate on the forms as the buyer's order/purchase order is more limited in space than a retail installment contract." The commission declines to include this suggestion in the adoption. As discussed earlier in this preamble, use of the model clauses is optional. The model clauses do not restrict a licensee to using the exact same language in a buyer's order or in a submitted non-standard retail installment contract. A shorter label such as "Gov't inspection replacement fee" could be sufficient if it is disclosed in an accurate manner. However, for purposes of creating a model clause for a retail installment contract, the commission and the OCCC believe that the full label "Government vehicle inspection program replacement fee" is appropriate and provides clear information to the retail buyer. Therefore, the commission has maintained the text for this adoption.

Amendments to §84.809 revise the model motor vehicle retail installment contract. The amendments to the figure accompanying §84.809(b) replace current references to the government inspection fee with lines for the inspection program replacement fee and the emissions inspection fee. These changes ensure consistency with HB 3297 and conform to the amendments to §84.808, as discussed earlier in this preamble. The amendments to §84.809 will have a delayed effective date of January 1, 2025.

SUBCHAPTER F. LICENSING

7 TAC §§84.602, 84.608, 84.611, 84.613, 84.616, 84.617

The rule changes are adopted under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348. 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. The rule changes to §84.802, §84.806, §84.808, and §84.809 are also adopted under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 341 and 348.

§84.602. Filing of New Application.

An application for issuance of a new motor vehicle sales finance license issued under Texas Finance Code, Chapter 348 or 353 must be submitted in a format prescribed by the commissioner at the date of filing and in accordance with the commissioner's instructions. The commissioner may accept the use of prescribed alternative formats in order to accept approved electronic submissions. Appropriate fees must be filed with the application, and the application must include the following:

(1) Required application information. All questions must be answered.

(A) Application for license.

(i) Location. A physical street address must be listed for the applicant's proposed licensed location. A post office box or a mail box location at a private mail-receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.

(ii) Compliance officer. The application must list a compliance officer. The compliance officer must be an individual responsible for overseeing compliance regarding the OCCC, and must be authorized to receive and respond to communications from the OCCC.

(iii) Registered agent. The registered agent must be designated by each applicant. The registered agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered agent is a natural person, the address must be a different address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered agent should be the one on file with the Office of the Texas Secretary of State. If the registered agent is not the same as the agent filed with the Office of the Texas Secretary of State, then the applicant must submit a certification from the secretary of the company identifying the registered agent.

(iv) List of registered offices. Each additional location, other than the licensed location shown on the application, must be listed. The applicant should provide the assumed name (DBA), physical address, telephone number, and the person responsible for day-to-day operations for each registered office. A registered office is required for any additional assumed name that the licensee uses at a single location to engage in a Texas Finance Code, Chapter 348 or 353 transaction.

(v) Owners and principal parties.

(I) Proprietorships. The applicant must disclose the name of the individual holding a 100% ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.

(II) General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.

(III) Limited partnerships. Each partner, general and limited, fulfilling the requirements of items (-a-) - (-c-) of this subclause must be listed and the percentage of ownership stated.

(-a-) General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.

(-b-) Limited partners. The applicant should provide a complete list of all limited partners owning 10% or more of the partnership.

(-c-) Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.

(IV) Corporations. Each officer and director must be named. Each shareholder holding 10% or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% or greater.

(V) Limited liability companies. Each "manager," "officer," and "member" owning 10% or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% or greater.

(VI) Trusts or estates. Each trustee or executor, as appropriate, must be listed.

(VII) Nonprofit organizations. Each officer must be listed.

(VIII) All entity types. If a parent entity is a different type of legal business entity than the applicant, the parent entity's owners and principal parties should be disclosed according to the parent's entity type.

(IX) Alternative filings for all entity types. The commissioner may also accept other filings submitted to a governmental authority that the commissioner deems to have information substan-

tially equivalent in coverage and reliability to a filing under subclauses (I) - (VIII) of this clause.

(B) Disclosure questions. All applicable questions must be answered. Questions requiring a "yes" answer must be accompanied by an explanatory statement and any appropriate documentation requested.

(C) Personal information.

(i) Personal affidavit. Each individual meeting the definition of "principal party" as defined in §84.601 of this title (relating to Definitions) must provide a personal affidavit. All requested information must be provided.

(ii) Personal questionnaire. Each individual meeting the definition of "principal party" as defined in §84.601 of this title must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.

(iii) Employment history. Each individual meeting the definition of "principal party" as defined in §84.601 of this title must provide an employment history. Each principal party should provide a continuous 10-year history, accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.

(D) Additional requirements.

(i) Statement of experience. Each applicant should provide information that relates to the applicant's prior experience in the motor vehicle sales finance business. If the applicant or its principal parties do not have significant experience in the same type of business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.

(ii) Business operating plan. An applicant must attach a brief narrative to the application explaining:

(I) an estimate of how many motor vehicles will be financed by the applicant each year;

(II) whether the applicant will hold the retail installment sales contracts or whether the applicant will assign its retail installment sales contracts;

(III) whether the applicant will only be accepting contracts from another entity (assignor), and, if so, list the types of entities; and

(IV) whether the collections will occur at the licensed location.

(iii) Statement of records. Each applicant must provide a statement of where records of Texas transactions will be maintained. If these records will be maintained at a location outside of Texas, the applicant must acknowledge responsibility for the travel cost associated with examinations in addition to the assessment fees or agree to make all records available for examination in Texas.

(E) Consent form. Each applicant must submit a consent form signed by an authorized individual. Electronic signatures will be accepted in a manner approved by the commissioner. The following are authorized individuals:

(i) If the applicant is a proprietor, the owner must sign.

(ii) If the applicant is a partnership, one general partner must sign.

(iii) If the applicant is a corporation, an authorized officer must sign.

(iv) If the applicant is a limited liability company, an authorized member or manager must sign.

(v) If the applicant is a trust or estate, the trustee or executor, as appropriate, must sign.

(F) Statement regarding previous installment transactions. Each applicant must submit a statement that it has or has not made or collected on any retail installment sales contract or accepted the cash payment for a motor vehicle in one or more installments from September 1, 2002, to date. This includes any contracts signed by applicant as seller that are subsequently assigned to a third party. If the applicant is purchasing another dealership and has permission to operate under an existing license, as described in §84.604 of this title (relating to Transfer of License; New License Application on Transfer of Ownership), the statement outlined by this subparagraph is not required. If the applicant has engaged in any of the referenced activities, the applicant must provide the following information:

(i) A list of all contracts used to finance the sale of a motor vehicle in one or more installments (whether the applicant was the original seller or whether the applicant became a holder). The list should include the name of the buyer, contract date, vehicle cash price, amount of down payment, net trade-in amount, total amount financed, payment frequency (monthly, semi-monthly, bi-weekly, weekly), total number of payments, and payment amount(s).

(ii) From the list provided by the applicant, copies of ten (10) complete files. The complete file includes, but is not limited to, the buyer's order, signed retail installment sales contract, payment history, certificate of title, and other documents related to that transaction. If there are fewer than ten (10) accounts, provide a complete copy of each file.

(2) Other required filings.

(A) Fingerprints.

(i) For all persons meeting the definition of "principal party" as defined in §84.601 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.

(ii) For limited partnerships, if the owners and principal parties under paragraph (1)(A)(v)(III)(-a-) of this section does not produce a natural person, the applicant must provide a complete set of legible fingerprints for individuals who are associated with the general partner as principal parties.

(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The agency may approve the request, seek alternative appropriate individuals, or deny the request.

(iv) For individuals who have previously been licensed by the OCCC and principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and

the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints in order to complete the OCCC's records.

(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Motor Vehicles), fingerprints are still required to be submitted under Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.

(B) Contract forms. The applicant must provide information regarding the retail installment sales contract forms it intends to use for retail installment sales transactions involving ordinary vehicles. The applicant does not have to provide retail installment sales contract forms involving commercial vehicles.

(i) Custom forms. If a custom contract form is to be prepared, a preliminary draft or proof that is complete as to format and content and which indicates the number and distribution of copies to be prepared for each transaction must be submitted.

(ii) Stock forms. If an applicant purchases or plans to purchase stock forms from a supplier, the applicant must include a statement that includes the supplier's name and address and a list identifying the forms to be used, including the revision date of the form, if any.

(C) Entity documents.

(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.

(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:

(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;

(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;

(III) if the registered agent is not the same as the one on file with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;

(IV) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation;

(V) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form;

(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.

(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held corporation must file the most recent 10K or 10Q for the applicant or for the parent company.

(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:

(I) a complete copy of the articles of organization;

(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;

(III) if the registered agent is not the same as the one on file with the Office of the Texas Secretary of State, a certification from the secretary of the company identifying the registered agent;

(IV) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations;

(V) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form;

(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.

(v) Trusts. A copy of the relevant portions of the instrument that created the trust addressing management of the trust and operations of the applicant must be filed with the application.

(vi) Estates. A copy of the instrument establishing the estate must be filed with the application.

(vii) Foreign entities. In addition to the items required by this section, a foreign entity must provide a certificate of authority to do business in Texas, if applicable.

(viii) Nonprofit organizations. The applicant must provide a copy of the relevant portions of the instrument creating the nonprofit organization addressing management of the organization and operations of the applicant. A nonprofit applicant must also provide a copy of its filing with the Internal Revenue Service or other evidence to verify that the applicant is a nonprofit organization exempt from taxation under Internal Revenue Code of 1986, §501(c)(3).

(ix) Formation document alternative. As an alternative to the entity-specific formation document applicable to the applicant's entity type (e.g., for a corporation, articles of incorporation), an applicant may submit a "certificate of formation" as defined in Texas Business Organizations Code, §1.002, if the certificate of formation provides the entity formation information required by this section for that entity type.

(D) Assumed name certificates. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, an assumed name certificate must be filed as provided in this subparagraph.

(i) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name must file an assumed name certificate with the county clerk of the county where the proposed business is located in compliance with Texas Business and Commerce Code, Chapter 71. An applicant must provide a copy of the assumed name certificate that shows the filing stamp of the county clerk or, alternatively, a certified copy.

(ii) Incorporated applicants. Incorporated applicants using or planning to use an assumed name must file an assumed name certificate in compliance with Texas Business and Commerce Code, Chapter 71. Evidence of the filing bearing the filing stamp of the Office of the Texas Secretary of State must be submitted or, alternatively, a certified copy.

(3) Late filing. An applicant who desires to retroactively file a license application may do so by complying with Texas Finance Code, §349.303, and the rules adopted under this chapter.

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

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Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
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For further information, please call: (512) 936-7660

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SUBCHAPTER G. EXAMINATIONS

7 TAC §§84.705, 84.707 - 84.710

The rule changes are adopted under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348. 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. The rule changes to §84.802, §84.806, §84.808, and §84.809 are also adopted under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 341 and 348.

§84.707. Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts).

(a) Applicability. The recordkeeping requirements of this section apply to retail sellers that immediately assign or transfer all retail installment sales contracts to another authorized creditor. If a retail seller collects any installments, excluding downpayments, on a retail installment sales contract, the retail seller must comply with the recordkeeping requirements established under §84.708 of this title (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)). The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination. This requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.

(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(d) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract entered into by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (7) of this subsection.

(B) Recordkeeping systems. The retail installment sales transaction report can be maintained either as an electronic system or as a paper record, so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is entered into by the licensee.

(C) Dealer's Motor Vehicle Inventory Tax Statement option.

(i) A licensee may utilize a copy of the Dealer's Motor Vehicle Inventory Tax Statement (VIT Statement) submitted to the Texas Comptroller of Public Accounts to satisfy the requirements of this paragraph if the following two conditions are met when the VIT Statement is provided to the commissioner's representative:

(I) on a copy of the submitted VIT Statement, the licensee identifies (e.g., highlights, marks with abbreviations) which transactions were cash transactions and which were retail installment sales transactions; and

(II) the licensee supplements the VIT Statement with the identification of all transactions in which VIT was not charged or collected.

(ii) A licensee who assigns account numbers and utilizes the Dealer's Motor Vehicle Inventory Tax Statement option must provide the account numbers for all retail installment sales transactions contained in the VIT Statement.

(D) Required information. A retail installment sales transaction report must contain the following information:

(i) the date of contract or date of sale (day, month, and year);

(ii) the retail buyer's name(s);

(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and

(iv) the account number, if the retail seller assigns an account number.

(E) Sorting or filtering. Upon request, if a licensee maintains some or all transaction records electronically, the licensee must be able to sort or filter the retail installment transaction report by each of the following:

(i) the date of contract or date of sale;

(ii) the retail buyer's name(s);

(iii) the status of the transaction (open or closed); and

(iv) whether the transaction has been assigned to another person and the name of any assignee.

(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;

(iii) the credit application and any other written or recorded information used in evaluating the application;

(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(v) copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction; and

(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (P) of this paragraph.

(B) for a vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.

(C) for a vehicle titled outside of Texas, a copy of the application for certificate of title for the buyer or the properly assigned evidence of ownership to the buyer including the Texas Comptroller of Public Accounts' Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312).

(D) for a retail installment sales transaction in which a power of attorney is necessary to transfer title to the buyer, a copy of the Texas Department of Motor Vehicles' Power of Attorney to Transfer a Motor Vehicle (Form VTR-271) or any other similar document used as a power of attorney.

(E) for a retail installment sales transaction involving a downpayment, a copy of any document relating to the downpayment including:

(i) receipts for cash downpayments;

(ii) promissory notes or other documents evidencing the retail buyer's agreement to pay the cash downpayment over time;

(iii) documents or forms signed by the retail buyer relating to a manufacturer's or distributor's rebate as permitted by the Texas Finance Code, §348.404(a); and

(iv) documents or forms evidencing the payoff of any trade-in vehicle shown on the retail installment sales contract as required by Texas Finance Code, §348.408(c).

(F) for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(G) for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document relating to the disbursement of funds for money advanced.

(H) for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(I) for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction from a holder to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (7) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(J) for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(K) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §226.18;

(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.

(L) for a retail installment sales contract that has an itemized charge for the inspection of a used motor vehicle, access to a copy of the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(M) for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) a copy of the trade-in credit agreement and any written notice or disclosure provided to the retail buyer;

(ii) evidence of the contractual liability reimbursement policy in effect at the time of the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(iii) documentation of any refund provided upon cancellation of a trade-in credit agreement.

(N) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) a copy of the trade-in credit agreement;

(ii) evidence of the amount of any credit applied under the trade-in credit agreement; and

(iii) any documentation used to process a claim, including:

(I) any proof of insurance settlement documents obtained from the retail buyer;

(II) any accident record or vehicle condition report obtained to process a claim; and

(III) any supplemental claim records supporting the approval or denial of the claim.

(O) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) evidence of the amount of any credit applied under the depreciation benefit optional member program; and

(ii) any documentation obtained by the licensee to process the benefit.

(P) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) Assignment information.

(A) Required information. Assignment information must cover any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed or registered location. The assignment information must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.

(B) Electronic recordkeeping systems. If a licensee is able to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph electronically without any additional programming costs, the licensee must produce the report upon request. If the licensee's software programs are unable to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(C) Manual recordkeeping systems. If a licensee is not able to produce an assignment report as provided in subparagraph (B) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(4) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The licensee is not required to produce information protected under the attorney-client privilege or work product privilege. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including:

(A) Texas Comptroller of Public Accounts' Dealer Motor Vehicle Inventory Tax Statement (Form 50-246); and

(B) Texas Comptroller of Public Accounts' Texas Motor Vehicle Seller-Financed Sales Tax Report (Form 14-117).

(5) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.

(6) Trade-in credit agreement records. Each licensee that enters a trade-in credit agreement or provides a benefit in connection with a trade-in credit agreement must:

(A) maintain a copy of any contractual liability reimbursement policy related to the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(B) maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, and the date of satisfaction or denial.

(7) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon by the licensee, whichever is later, or a different period of time if required by federal law. For licensees who assign retail installment sales contracts, the final entry may be the date of the assignment if the licensee makes no other entries on the account after the assignment. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and records within a reasonable time at the licensed location or registered office specified on the license. The records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records

available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.

(8) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. If a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4.

(9) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

§84.708. Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts).

(a) Applicability. The recordkeeping requirements of this section apply to retail sellers that service or collect installments on retail installment sales contracts involving ordinary vehicles. The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination. This requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.

(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(d) Record search requirements.

(1) Open retail installment sales transactions. A licensee must be able to access or produce a list of all open retail installment sales transactions. If the list of open transactions is accessed through an electronic system, the licensee must be able to generate a separate report of open transactions. Alternatively, a licensee may provide a list containing open and closed retail installment sales transactions as long as the open transactions are designated as "open."

(2) Alphabetical search. A licensee must be able to access records in alphabetical order by retail buyer name for open and closed transactions during the record retention period required by subsection (e)(10) of this section. A licensee may comply with the alphabetical requirement by providing the commissioner's representative files by retail buyer name upon request by the commissioner's representative.

(3) Sorting or filtering. Upon request, if a licensee maintains some or all transaction records electronically, a licensee must be able to sort or filter a records search by each of the following:

(A) the date of contract or date of sale;

(B) the retail buyer's name(s);

(C) the status of the transaction (open or closed); and

(D) whether the transaction has been assigned to another person and the name of any assignee.

(e) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract made or acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (10) of this subsection.

(B) Recordkeeping systems. The retail installment sales transaction report can be maintained either an electronic system or as a paper record, so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is made or acquired.

(C) Dealer's Motor Vehicle Inventory Tax Statement option.

(i) A licensee may utilize a copy of the Dealer's Motor Vehicle Inventory Tax Statement (VIT Statement) submitted to the Texas Comptroller of Public Accounts to satisfy the requirements of this paragraph if the following two conditions are met when the VIT Statement is provided to the commissioner's representative:

(I) on a copy of the submitted VIT Statement, the licensee identifies (e.g., highlights, marks with abbreviations) which transactions were cash transactions and which were retail installment sales transactions; and

(II) the licensee supplements the VIT Statement with the identification of all transactions in which VIT was not charged or collected.

(ii) A licensee who assigns account numbers and utilizes the Dealer's Motor Vehicle Inventory Tax Statement option must provide the account numbers for all retail installment sales transactions contained in the VIT Statement.

(D) Required information. A retail installment sales transaction report must contain the following information:

(i) the date of contract or date of sale (day, month, and year);

(ii) the retail buyer's name(s);

(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and

(iv) the account number.

(E) Sorting or filtering. Upon request, a licensee must be able to sort or filter the retail installment transaction report by each of the following:

(i) the date of contract or date of sale;

(ii) the retail buyer's name(s);

(iii) the status of the transaction (open or closed); and

(iv) whether the transaction has been assigned to another person and the name of any assignee.

(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;

(iii) the credit application and any other written or recorded information used in evaluating the application;

(iv) the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front and back of either the original or certified copy of the title;

(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(vi) copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction; and

(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (U) of this paragraph.

(B) for a vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.

(C) for a vehicle titled outside of Texas, a copy of the application for certificate of title for the buyer or the properly assigned evidence of ownership to the buyer including the Texas Comptroller of Public Accounts' Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312).

(D) for a retail installment sales transaction in which a power of attorney is necessary to transfer title to the buyer, a copy of the Texas Department of Motor Vehicles' Power of Attorney to Transfer a Motor Vehicle (Form VTR-271) or any other similar document used as a power of attorney.

(E) for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:

(i) receipts for cash downpayments;

(ii) promissory notes or other documents evidencing the retail buyer's agreement to pay the cash downpayment over time;

(iii) documents or forms signed by the retail buyer relating to a manufacturer's or distributor's rebate as permitted by Texas Finance Code, §348.404(a); and

(iv) documents or forms evidencing the payoff of any trade-in vehicle shown on the retail installment sales contract as required by Texas Finance Code, §348.408(c).

(F) for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(G) for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(H) for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document, form, or agreement relating to the disbursement of funds for money advanced.

(I) for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(J) for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(K) for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products is-

sued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(L) for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(i) if the licensee does not negotiate or transact insurance claims on behalf of the retail buyer, records are not required to be maintained under this subparagraph.

(ii) if the licensee negotiates or transacts insurance claims on behalf of the retail buyer, supplemental insurance records, to the extent received by the licensee, supporting the settlement or denials of claims reported in the insurance loss records provided by paragraph (6) of this subsection including:

(I) Credit life insurance claims. The supplemental insurance records for credit life insurance claims must include the death certificate or other written records relating to the death of the retail buyer; proof of loss or claim form that discloses the amount of indebtedness at the time of death; check copies or electronic payment receipts that reflect the gross amount of the claim paid, including the amount of insurance benefits paid to beneficiaries other than the licensee which is in excess of the net amount necessary to pay the indebtedness; and the amount that is paid to beneficiaries other than the licensee.

(II) Credit accident and health insurance claims. The supplemental insurance records for credit accident and health insurance claims must include any written records relating to the disability, including statements from the physician, employer, and retail buyer; the proof of loss or claim form filed by the retail buyer; and copies of the checks or electronic payment receipts reflecting disability payments paid by the insurance carrier.

(III) Credit involuntary unemployment insurance claims. The supplemental insurance records for credit involuntary unemployment insurance claims must include any written document relating to the termination, layoff, or dismissal of the retail buyer; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the involuntary unemployment insurance claim.

(IV) Collateral protection insurance claims. The supplemental insurance records for collateral protection insurance claims must include the law enforcement report, fire department report, or other written record reflecting the loss or destruction of any covered motor vehicle; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the collateral protection insurance claim.

(V) Credit gap insurance claims. The supplemental insurance records for credit gap insurance claims must include the gap insurance claim form; proof of loss and settlement check from the retail buyer's basic comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle; documents that provide verification of the retail buyer's primary insurance deductible; if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle; if the accident was not investigated by a law enforcement officer, a copy of any law enforcement crash report form filed in connection with the total loss of the motor vehicle; and copies of the checks reflecting the settlement amount paid by the licensee for the gap insurance claim.

(M) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:

(i) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles that include insurance coverage as part of the retail buyer's responsibility to the holder:

(I) supplemental claim records supporting the settlement or denials of claims reported in the debt cancellation agreement loss records provided by paragraph (7) of this subsection including the debt cancellation request form;

(II) proof of loss and settlement payment from the retail buyer's primary comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle;

(III) documents that provide verification of the retail buyer's primary insurance deductible;

(IV) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;

(V) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and

(VI) evidence of the credit for the debt cancellation applied to the account or a copy of the check reflecting the balance canceled by the licensee; or

(ii) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles in which the holder bears complete responsibility for the balance canceled after the total loss or theft:

(I) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;

(II) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and

(III) any records relating to the denial of the cancellation of the balance under the debt cancellation agreement for total loss or theft of any ordinary vehicle.

(N) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §1026.18;

(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.

(O) for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(P) for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.

(Q) for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(i) a copy of any written deferment agreement; and

(ii) any written notice to the retail buyer regarding a deferment under Texas Finance Code, §348.114(c).

(R) for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) a copy of the trade-in credit agreement and any written notice or disclosure provided to the retail buyer;

(ii) evidence of the contractual liability reimbursement policy in effect at the time of the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(iii) documentation of any refund provided upon cancellation of a trade-in credit agreement.

(S) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) a copy of the trade-in credit agreement;

(ii) evidence of the amount of any credit applied under the trade-in credit agreement; and

(iii) any documentation used to process a claim, including:

(I) any proof of insurance settlement documents obtained from the retail buyer;

(II) any accident record or vehicle condition report obtained to process a claim; and

(III) any supplemental claim records supporting the approval or denial of the claim.

(T) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) evidence of the amount of any credit applied under the depreciation benefit optional member program; and

(ii) any documentation obtained by the licensee to process the benefit.

(U) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) Account record for each retail installment sales contract (including payment and collection contact history). A separate electronic or paper record must be maintained covering each retail installment sales contract. The electronic or paper account record must be readily available by reference to either a retail buyer's name or account number.

(A) Required information. The account record for each retail installment sales contract must contain at least the following information, unless stated otherwise:

(i) account number as recorded in the retail installment sales transaction report;

(ii) date of contract;

(iii) name and address of retail buyer;

(iv) payment history information:

(I) itemized payment entries showing date payment received; dual postings are acceptable if date of posting is other than date of receipt;

(II) for a transaction using the true daily earnings method, if requested during an examination or investigation, a breakdown for each payment showing the amount applied toward principal, time price differential, late charges, and any other charges;

(III) if requested during an examination or investigation, a payoff amount that denotes amounts applied to principal, time price differential, default, deferment, or other authorized charges;

(v) for a retail installment sales contract where the licensee receives or issues a refund of insurance charges, debt cancellation agreements, or authorized ancillary products, a licensee is responsible for maintaining sufficient documentation of any refund including final entries and is also responsible for providing refunds to the retail buyer or correctly applying refunds to the retail buyer's account. Refund amounts must be itemized to show:

(I) time price differential refunded, if any;

(II) the amount of any insurance charges refunded;

(III) the amount of any debt cancellation agreement fees refunded;

(IV) the amount of any authorized ancillary products charges refunded;

(vi) collection contact history, including a written record of:

(I) all collection contacts made by a licensee with the retail buyer or any other person in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(II) all collection contacts made by the retail buyer with the licensee in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(III) for the collection contacts in subclauses (I) and (II) of this clause, the written record must include the date, method of contact, contacted party, person initiating the contact, and a summary of the contact;

(IV) copies of individual collection notices or letters or references to standard collection letters sent to the retail buyer.

(B) Recommended information. In addition to the required information under subparagraph (A) of this paragraph, it is recommended that the account record for each retail installment sales contract contain the following information:

(i) retail installment sales contract payment schedule and terms itemized to show:

(I) number of installments;

(II) due date of installments;

(III) amount of each installment; and

(IV) maturity date;

(ii) telephone number of retail buyer;

(iii) names and addresses of co-retail buyer or other obligors, if any;

(iv) amount financed;

(v) total time price differential charge;

(vi) total of payments;

(vii) amount of premium charges for insurance products;

(viii) amount of fees charged for debt cancellation agreements.

(C) Corrective entries. A licensee may make corrective entries to the account record for each retail installment sales contract if the corrective entry is justified. A licensee must maintain the reason and supporting documentation for each corrective entry made to the account record. The reason for the corrective entry may be recorded in the collection contact history of the account record. The supporting documentation justifying the corrective entry can be maintained in the individual account record for each retail installment sales contract or properly stored and indexed in a licensee's optically imaged recordkeeping system. If a licensee manually maintains the account record, the licensee must properly correct an improper entry by drawing a single line through the improper entry and entering the correct information above or below the improper entry. No erasures or other obliterations may be made on the payments received or collection contact history section of the manual account record for each retail installment sales contract.

(4) Assignment information.

(A) Required information. Assignment information must cover any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed or registered location. The assignment information must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.

(B) Electronic recordkeeping systems. If a licensee is able to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph electronically without any additional programming costs, the licensee must produce the report upon request. If the licensee's software programs are unable to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(C) Manual recordkeeping systems. If a licensee is not able to produce an assignment report as provided in subparagraph (B) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(D) Securitization or financing exception. If the servicing rights are retained by the licensee, then the licensee is not required to include in the assignment report retail installment sales transactions that were assigned to a legal entity as part of a securitization agreement. A licensee is also not required to include in the assignment report retail installment sales transactions that have been pledged as collateral for a bona fide financing arrangement to the licensee.

(5) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The licensee is not required to produce information protected under the attorney-client privilege or work product privilege. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including:

(A) Texas Comptroller of Public Accounts' Dealer Motor Vehicle Inventory Tax Statement (Form 50-246);

(B) Texas Comptroller of Public Accounts' Texas Motor Vehicle Seller-Financed Sales Tax Report (Form 14-117); and

(C) repossession, sequestration, disposition, or legal fees relating to repossession, sequestration, or disposition.

(6) Insurance loss records. Each licensee who negotiates or transacts the filing of insurance claims must maintain a register or be able to generate a report, electronic or paper, reflecting information to the extent received by the licensee on credit life, credit accident and health, credit property, credit involuntary unemployment, and single-interest insurance claims whether paid or denied by the insurance carrier. If the reason for the denial of a credit life insurance or credit accident and health insurance claim is based upon the medical records of the retail buyer, supplemental records supporting the denial of the claim must be made available upon request.

(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.

(8) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.

(9) Trade-in credit agreement records. Each licensee that enters a trade-in credit agreement or provides a benefit in connection with a trade-in credit agreement must:

(A) maintain a copy of any contractual liability reimbursement policy related to the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(B) maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, and the date of satisfaction or denial.

(10) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon, whichever is later, or a different period of time if required by federal law. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and

records within a reasonable time at the licensed location or registered office specified on the license. The records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.

(f) Repossession records.

(1) Repossession report. A licensee must be able to access or produce a list of all retail installment sales transactions involving repossession by the licensee. If the list of repossessions is accessed through an electronic system, the licensee must be able to generate a separate report of repossessions. If the repossession report is maintained under a manual recordkeeping system, the licensee must maintain a current list of accounts in repossession. A manual repossession report must be updated within a reasonable time from the date of repossession. The repossession report must include the retail buyer's name, account number, and date of repossession. If accounts have been subsequently assigned, the assignment must be noted in the repossession report as well as on the record of assigned accounts as prescribed in subsection (e)(4) of this section.

(2) Required information. For a retail installment sales transaction involving the repossession of the vehicle, the following records must be maintained, unless otherwise specified:

(A) a condition report indicating the condition of the collateral, if prepared by the licensee, the licensee's agent, or any independent contractor hired to perform the repossession;

(B) any invoices or receipts for any reasonable and authorized out-of-pocket expenses that are assessed to the buyer and incurred in connection with the repossession or sequestration of the vehicle including cost of storing, reconditioning, and reselling the vehicle;

(C) for a vehicle disposed of in a public or private sale as permitted by the Texas Business and Commerce Code, §9.610, the following documents:

(i) one of the three following notices:

(I) for a transaction not involving consumer goods, a copy of any Notification of Disposition of Collateral letter sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.613;

(II) for a transaction involving consumer goods, a copy of any Notice of Our Plan to Sell Property as sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.614; or

(III) a copy of the waiver of the notice of intended disposition prescribed by subclause (I) or (II) of this clause, as applicable, signed by the retail buyer and other obligors after default;

(ii) copies of evidence of the type or manner of private sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as circumstances surrounding a dealer only auction, internet sale or other type of private disposition;

(iii) copies of evidence of the type or manner of public sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as documentation of the date, place, manner of sale of the vehicle, and amounts received for disposition of the vehicle;

(iv) the bill of sale showing the name and address of the purchaser of the repossessed collateral and the purchase price of the vehicle;

(v) for a disposition or sale of collateral creating a surplus balance, a copy of the check representing the payment of the surplus balance paid to the retail buyer or other person entitled to the surplus;

(vi) for a disposition or sale of collateral resulting in a surplus or deficiency, a copy of the explanation of calculation of surplus or deficiency as required by Texas Business and Commerce Code, §9.616, if applicable;

(vii) a copy of the waiver of the deficiency letter if the retail seller elects to waive the deficiency balance in lieu of sending the explanation of calculation of surplus or deficiency form, if applicable;

(D) for a vehicle disposed of using the strict foreclosure method as permitted by the Texas Business and Commerce Code, §9.620 and §9.621, the following documents:

(i) one of the three following notices;

(I) for a transaction not involving consumer goods and where less than 60% of the cash price of the vehicle has been paid, a copy of the notice of proposal to accept collateral in full or partial satisfaction of the obligation;

(II) for a transaction involving consumer goods, a copy of the notice of proposal to accept collateral in full satisfaction of the obligation; or

(III) for a transaction where more than 60% of the cash price of the vehicle has been paid, a copy of the debtor or obligor's waiver of compulsory disposition of collateral signed by the retail buyers and other obligors after default;

(ii) for a transaction where the retail buyer rejects the offer under clause (i)(I) or (II) of this subparagraph, a copy of the retail buyer's signed objection to retention of the collateral;

(iii) copies of the records reflecting the partial or total satisfaction of the obligation; and

(E) for a vehicle disposed by another authorized method pursuant to the Texas Business and Commerce Code, Chapter 9, a copy of any and all records or documents relating to the disposition of the collateral

(g) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. If a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4.

(h) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

§84.709. Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts).

(a) Applicability. The recordkeeping requirements of this section apply to holders who are not retail sellers that service or collect installments on retail installment sales contracts involving ordinary vehicles. The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination.

(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(d) Record search requirements.

(1) Open retail installment sales transactions. A licensee must be able to access or produce a list of all open retail installment sales transactions. If the list of open transactions is accessed through an electronic system, the licensee must be able to generate a separate report of open transactions. Alternatively, a licensee may provide a list containing open and closed retail installment sales transactions as long as the open transactions are designated as "open."

(2) Alphabetical search. A licensee must be able to access records in alphabetical order by retail buyer name for open and closed transactions during the record retention period required by subsection (e)(9) of this section. A licensee may comply with the alphabetical requirement by providing the commissioner's representative files by retail buyer name upon request by the commissioner's representative.

(3) Sorting or filtering. Upon request, if a licensee maintains some or all transaction records electronically, a licensee must be able to sort or filter a records search by each of the following:

(A) the date of contract or date of sale;

(B) the retail buyer's name(s);

(C) the status of the transaction (open or closed); and

(D) whether the transaction has been assigned to another person and the name of any assignee.

(e) Records required.

(1) Retail installment sales transaction report. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (9) of this subsection. The retail installment sales transaction report can be maintained either as a paper record or may be generated from an electronic system or systems so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is acquired.

(A) A retail installment sales transaction report must contain the following information:

(i) the date of contract (day, month, and year);

(ii) the retail buyer's name(s);

(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and

(iv) the account number.

(B) Sorting or filtering. Upon request, a licensee must be able to sort or filter the retail installment transaction report by each of the following:

(i) the date of contract or date of sale;

(ii) the retail buyer's name(s);

(iii) the status of the transaction (open or closed); and

(iv) whether the transaction has been assigned to another person and the name of any assignee.

(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) the credit application and any other written or recorded information used in evaluating the application;

(iii) the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front of either the original or certified copy of the title; and

(iv) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (J) of this paragraph.

(B) for a vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.

(C) for a retail installment sales transaction in which insurance policies are issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(D) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer and any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and any documentation that comes into the licensee's possession regarding a refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (9) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(E) for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(i) if the licensee does not negotiate or transact insurance claims on behalf of the retail buyer, records are not required to be maintained under this subparagraph.

(ii) if the licensee negotiates or transacts insurance claims on behalf of the retail buyer, supplemental insurance records, to the extent received by the licensee, supporting the settlement or denials of claims reported in the insurance loss records provided by paragraph (6) of this subsection including:

(I) Credit life insurance claims. The supplemental insurance records for credit life insurance claims must include the death certificate or other written records relating to the death of the retail buyer; proof of loss or claim form that discloses the amount of indebtedness at the time of death; check copies or electronic payment receipts that reflect the gross amount of the claim paid, including the amount of insurance benefits paid to beneficiaries other than the licensee which is in excess of the net amount necessary to pay the indebtedness; and the amount that is paid to beneficiaries other than the licensee.

(II) Credit accident and health insurance claims. The supplemental insurance records for credit accident and health insurance claims must include any written records relating to the disability, including statements from the physician, employer, and retail buyer; the proof of loss or claim form filed by the retail buyer; and copies of the checks or electronic payment receipts reflecting disability payments paid by the insurance carrier.

(III) Credit involuntary unemployment insurance claims. The supplemental insurance records for credit involuntary unemployment insurance claims must include any written document relating to the termination, layoff, or dismissal of the retail buyer; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the involuntary unemployment insurance claim.

(IV) Collateral protection insurance claims. The supplemental insurance records for collateral protection insurance claims must include the law enforcement report, fire department report, or other written record reflecting the loss or destruction of any covered motor vehicle; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the collateral protection insurance claim.

(V) Credit gap insurance claims. The supplemental insurance records for credit gap insurance claims must include the gap insurance claim form; proof of loss and settlement check from the retail buyer's basic comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle; documents that provide verification of the retail buyer's primary insurance deductible; if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle; if the accident was not investigated by a law enforcement officer, a copy of any law enforcement crash report form filed in connection with the total loss of the motor vehicle; and copies of the checks reflecting the settlement amount paid by the licensee for the gap insurance claim.

(F) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle, or involving the cancellation or termination of a debt cancellation agreement, the licensee must:

(i) maintain any documents that come into its possession relating to the creation, processing, resolution, cancellation, or termination of a debt cancellation agreement; and

(ii) upon request of the agency, cooperate in requesting and obtaining access to the type of documents described in clause (i) of this subparagraph that are not in its possession.

(G) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §1026.18;

(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.

(H) for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(I) for a retail installment sales transaction involving repossession, the records required by subsection (f) of this section.

(J) for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(i) a copy of any written deferment agreement; and

(ii) any written notice to the retail buyer regarding a deferment under Texas Finance Code, §348.114(c).

(3) Account record for each retail installment sales contract (including payment and collection contact history). A separate electronic or paper record must be maintained covering each retail install-

ment sales contract. The electronic or paper account record must be readily available by reference to either a retail buyer's name or account number.

(A) Required information. The account record for each retail installment sales contract must contain at least the following information, unless stated otherwise:

(i) account number as recorded in the retail installment sales transaction report;

(ii) date of contract;

(iii) name and address of retail buyer;

(iv) payment history information:

(I) itemized payment entries showing date payment received; dual postings are acceptable if date of posting is other than date of receipt;

(II) for a transaction using the true daily earnings method, if requested during an examination or investigation, a breakdown for each payment showing the amount applied toward principal, time price differential, late charges, and any other charges;

(III) if requested during an examination or investigation, a payoff amount that denotes amounts applied to principal, time price differential, default, deferment, or other authorized charges;

(v) for a retail installment sales contract where the licensee receives or issues a refund of insurance charges, debt cancellation agreements or authorized ancillary products, a licensee is responsible for maintaining sufficient documentation of any refund including final entries and is also responsible for providing refunds to the retail buyer or correctly applying refunds to the retail buyer's account. Refund amounts must be itemized to show:

(I) time price differential refunded, if any;

(II) the amount of any insurance charges refunded;

(III) the amount of debt cancellation agreement fees refunded;

(IV) the amount of any authorized ancillary products charges refunded;

(vi) collection contact history, including a written record of:

(I) all collection contacts made by a licensee with the retail buyer or any other person in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(II) all collection contacts made by the retail buyer with the licensee in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(III) for the collection contacts in subclauses (I) and (II) of this clause, the written record must include the date, method of contact, contacted party, person initiating the contact, and a summary of the contact;

(IV) copies of individual collection notices or letters or references to standard collection letters sent to the retail buyer.

(B) Recommended information. In addition to the required information under subparagraph (A) of this paragraph, it is recommended that the account record for each retail installment sales contract contain the following information:

(i) retail installment sales contract payment schedule and terms itemized to show:

(I) number of installments;

(II) due date of installments;

(III) amount of each installment; and

(IV) maturity date;

(ii) telephone number of retail buyer;

(iii) names and addresses of co-retail buyer or other obligors, if any;

(iv) amount financed;

(v) total time price differential charge;

(vi) total of payments;

(vii) amount of premium charges for insurance products;

(viii) amount of fees charged for debt cancellation agreements.

(C) Corrective entries. A licensee may make corrective entries to the account record for each retail installment sales contract if the corrective entry is justified. A licensee must maintain the reason and supporting documentation for each corrective entry made to the account record. The reason for the corrective entry may be recorded in the collection contact history of the account record. The supporting documentation justifying the corrective entry can be maintained in the individual account record for each retail installment sales contract or properly stored and indexed in a licensee's optically imaged record-keeping system. If a licensee manually maintains the account record, the licensee must properly correct an improper entry by drawing a single line through the improper entry and entering the correct information above or below the improper entry. No erasures or other obliterations may be made on the payments received or collection contact history section of the manual account record for each retail installment sales contract.

(4) Assignment report.

(A) Required information. A licensee must maintain or produce an assignment report, whether paper or electronic, including any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed or registered location. The assignment report must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.

(B) Securitization or financing exception. If the servicing rights are retained by the licensee, then the licensee is not required to include in the assignment report retail installment sales transactions that were assigned to a legal entity as part of a securitization agreement. A licensee is also not required to include in the assignment report retail installment sales transactions that have been pledged as collateral for a bona fide financing arrangement to the licensee.

(5) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including repossession, sequestration, disposition, or legal fees relating to repossession, sequestration, or disposition. The licensee is

not required to produce information protected under the attorney-client privilege or work product privilege.

(6) Insurance loss records. Each licensee who negotiates or transacts the filing of insurance claims must maintain a register or be able to generate a report, electronic or paper, reflecting information to the extent received by the licensee on credit life, credit accident and health, credit property, credit involuntary unemployment, and single-interest insurance claims whether paid or denied by the insurance carrier. If the reason for the denial of a credit life insurance or credit accident and health insurance claim is based upon the medical records of the retail buyer, supplemental records supporting the denial of the claim must be made available upon request.

(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.

(8) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.

(9) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon, whichever is later, or a different period of time if required by federal law. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and records within a reasonable time at the licensed location or registered office specified on the license. The records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.

(f) Repossession records.

(1) Repossession report. A licensee must be able to access or produce a list of all retail installment sales transactions involving repossession by the licensee. If the list of repossessions is accessed through an electronic system, the licensee must be able to generate a separate report of repossessions. If the repossession report is maintained under a manual recordkeeping system, the licensee must maintain a current list of accounts in repossession. A manual repossession report must be updated within a reasonable time from the date of repossession. The repossession report must include the retail buyer's name, account number, and date of repossession. If accounts have been subsequently assigned, the assignment must be noted in the repossession report as well as on the record of assigned accounts as prescribed in subsection (e)(4) of this section.

(2) Required information. For a retail installment sales transaction involving the repossession of the vehicle, the following records must be maintained, unless otherwise specified:

(A) a condition report indicating the condition of the collateral, if prepared by the licensee, the licensee's agent, or any independent contractor hired to perform the repossession;

(B) any invoices or receipts for any reasonable and authorized out-of-pocket expenses that are assessed to the buyer and incurred in connection with the repossession or sequestration of the vehicle including cost of storing, reconditioning, and reselling the vehicle;

(C) for a vehicle disposed of in a public or private sale as permitted by the Texas Business and Commerce Code, §9.610, the following documents:

(i) one of the three following notices:

(I) for a transaction not involving consumer goods, a copy of any Notification of Disposition of Collateral letter sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.613;

(II) for a transaction involving consumer goods, a copy of any Notice of Our Plan to Sell Property as sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.614; or

(III) a copy of the waiver of the notice of intended disposition prescribed by subclause (I) or (II) of this clause, as applicable, signed by the retail buyer and other obligors after default;

(ii) copies of evidence of the type or manner of private sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as circumstances surrounding a dealer only auction, internet sale or other type of private disposition;

(iii) copies of evidence of the type or manner of public sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as documentation of the date, place, manner of sale of the vehicle, and amounts received for disposition of the vehicle;

(iv) the bill of sale showing the name and address of the purchaser of the repossessed collateral and the purchase price of the vehicle;

(v) for a disposition or sale of collateral creating a surplus balance, a copy of the check representing the payment of the surplus balance paid to the retail buyer or other person entitled to the surplus;

(vi) for a disposition or sale of collateral resulting in a surplus or deficiency, a copy of the explanation of calculation of surplus or deficiency as required by Texas Business and Commerce Code, §9.616, if applicable;

(vii) a copy of the waiver of the deficiency letter if the retail seller elects to waive the deficiency balance in lieu of sending the explanation of calculation of surplus or deficiency form, if applicable;

(D) for a vehicle disposed of using the strict foreclosure method as permitted by the Texas Business and Commerce Code, §9.620 and §9.621, the following documents:

(i) one of the three following notices;

(I) for a transaction not involving consumer goods and where less than 60% of the cash price of the vehicle has

been paid, a copy of the notice of proposal to accept collateral in full or partial satisfaction of the obligation;

(II) for a transaction involving consumer goods, a copy of the notice of proposal to accept collateral in full satisfaction of the obligation; or

(III) for a transaction where more than 60% of the cash price of the vehicle has been paid, a copy of the debtor or obligor's waiver of compulsory disposition of collateral signed by the retail buyers and other obligors after default;

(ii) for a transaction where the retail buyer rejects the offer under clause (i)(I) or (II) of this subparagraph, a copy of the retail buyer's signed objection to retention of the collateral;

(iii) copies of the records reflecting the partial or total satisfaction of the obligation; and

(E) for a vehicle disposed by another authorized method pursuant to the Texas Business and Commerce Code, Chapter 9, a copy of any and all records or documents relating to the disposition of the collateral.

(g) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. If a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4.

(h) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

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 October 25, 2024.

TRD-202405031
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Effective date: November 14, 2024
Proposal publication date: August 30, 2024
For further information, please call: (512) 936-7660

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SUBCHAPTER H. RETAIL INSTALLMENT SALES CONTRACT PROVISIONS

7 TAC §84.802, §84.806

The rule changes are adopted under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348. 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. The rule changes to §84.802, §84.806, §84.808, and §84.809 are also adopted under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 341 and 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.

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Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
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For further information, please call: (512) 936-7660

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7 TAC §84.808, §84.809

The rule changes are adopted under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348. 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. The rule changes to §84.802, §84.806, §84.808, and §84.809 are also adopted under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 341 and 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.

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Matthew Nance
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Office of Consumer Credit Commissioner
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For further information, please call: (512) 936-7660

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PART 7. STATE SECURITIES BOARD

CHAPTER 111. SECURITIES EXEMPT FROM REGISTRATION

7 TAC §111.2

The Texas State Securities Board adopts an amendment to §111.2, concerning Listed and Designated Securities, without changes to the proposed text as published in the July 12, 2024,

issue of the *Texas Register* (49 TexReg 4979). The amended rule will not be republished.

The references to sections of the Texas Securities Act (Act) are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

The section is also amended to replace the reference to the term "United States Securities and Exchange Commission" with the term "SEC" in subsection (d). SEC is already a defined term in §107.2, concerning Definitions. The nonsubstantive amendments are made pursuant to the Agency's periodic review of its rules.

Statutory references are current and accurate and conform to the codified version of the Act; and terminology and references are updated.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C, and Chapter 4005.

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 October 25, 2024.

TRD-202405026
Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: November 14, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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CHAPTER 113. REGISTRATION OF SECURITIES

7 TAC §113.14

The Texas State Securities Board adopts an amendment to §113.14, concerning Statements of Policy, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4980). The amended rule will not be republished.

The amendment adopts by reference certain updated North American Securities Administrators Association ("NASAA") statements of policy ("SOPs") that were amended by NASAA on September 12, 2023. Uniformity with other states when reviewing applications to register securities is increased.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C.

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 October 25, 2024.

TRD-202405030
Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: November 14, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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CHAPTER 114. FEDERAL COVERED SECURITIES

7 TAC §114.4

The Texas State Securities Board adopts an amendment to §114.4, concerning Filings and Fees, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4981). The amended rule will not be republished.

Section 114.4(b) is amended to add a new paragraph (6) to specifically address federal covered securities offered pursuant to Securities and Exchange Commission (SEC) Federal Crowdfunding. Previously, these offerings fell within the catch-all for federal covered securities provided by subsection (a). To assist issuers in more readily locating the filing and fee requirements for SEC Federal crowdfunding offerings, a specific provision covering these offerings is provided in new subsection (b)(6). No change is made to the filing or fee requirements of this rule, other than to permit a filer to use the Uniform Notice Filing of Federal Crowdfunding form instead of page 1, Items 1-6 of the Form U-1. The Federal Crowdfunding form includes a consent to service of process. The nonsubstantive amendment is made pursuant to the Agency's periodic review of its rules.

Federal Crowdfunding filings are more efficient because a specific filing requirement for Federal Crowdfunding filings has been provided and Federal Crowdfunding filers are permitted to use a different form for these filings.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §§4002.151 and 4005.024, as adopted by HB 7171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The adopted amendment affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; Chapter 4005, Subchapters A and B; and Chapter 4006.

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 October 25, 2024.

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Travis J. Iles
Securities Commissioner
State Securities Board
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Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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CHAPTER 133. FORMS

7 TAC §133.7

The Texas State Securities Board adopts the repeal of rule §133.7, which adopts by reference a form concerning Securities Application, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4982). The repealed rule will not be republished.

The adopted repeal of the rule allows for the simultaneous adoption of a new rule and a new corrected form by reference, which are being concurrently adopted. The repeal is made pursuant to the Agency's periodic review its rules.

An existing form has been eliminated so it can be replaced with a new corrected form.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted repeal affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; and Chapter 4006, Subchapters A, B, and C.

§133.7. Securities Application.

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 October 25, 2024.

TRD-202405037
Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: November 14, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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7 TAC §133.7

The Texas State Securities Board adopts new rule §133.7, which adopts by reference a form concerning Securities Application, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4982). The new rule will not be republished.

Previous §133.7 and the form it adopted by reference, which referred to a different form that has been repealed and no longer exists, is repealed and replaced with a new rule that adopts a new corrected form by reference. The new rule is made pursuant to the Agency's periodic review its rules.

A repealed form has been replaced with a new, updated form.

No comments were received regarding adoption of the new rule.

STATUTORY AUTHORITY

The new rule is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted new rule affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4003, Subchapters A, B, and C; and Chapter 4006, Subchapters A, B, and C.

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

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TRD-202405036

Travis J. Iles
Securities Commissioner
State Securities Board
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Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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7 TAC §133.33

The Texas State Securities Board adopts an amendment to §133.33, concerning Uniform Forms Accepted, Required, or Recommended, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4983). The amended rule will not be republished.

The amendment to §133.33 updates the statutory reference to the Texas Securities Act (Act) in §133.33(a)(8) to refer to the correct section in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

The amendment to §133.33 also adds the Uniform Notice of Federal Crowdfunding (Form U-CF) form and Form U6 to the list in subsection (a) of uniform forms accepted. The Form U-CF is used for making the required notice filings for this type of federal covered securities. A related change to §114.4 is being concurrently adopted. Form U6 is used by state securities regulators, including the Agency, and by federal securities regulators, for reporting disclosure events and disciplinary actions against individuals and organizations. The addition of Form U6 to the list of uniform forms accepted acknowledges through formal rulemaking the Agency's current practice of accepting these forms as a means of notifying the Agency of such events disclosed in these forms.

The amendments to this section are made pursuant to the Agency's periodic review of its rules.

Federal Crowdfunding filings are more accurate and efficient because a specific form is provided for these filings, and the rule is current, accurate, and reflects an existing practice.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects the following sections of the Texas Securities Act: Texas Government Code Chapter 4005, Subchapter A; and §4007.105.

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

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TRD-202405038

Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: November 14, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §§139.1, 139.2, 139.7 - 139.16, 139.18 - 139.24, 139.26, 139.27

The Texas State Securities Board adopts amendments to 21 rules in this chapter, §§139.1, 139.2, 139.7 - 139.16, 139.18 - 139.24, 139.26, and 139.27, without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4984). The amended rules will not be republished.

The amended rules make nonsubstantive changes to the chapter. Specifically, the Board adopts amendments to §139.1, concerning Policies; §139.2, concerning Professional Associations; §139.7, concerning Sale of Securities to Nonresidents; §139.8, concerning Sales to Underwriters; §139.9, concerning Bank Holding Companies; §139.10, concerning Exchange Offers; §139.11, concerning Transactions in United States Savings Bonds; §139.12, concerning Oil and Gas Auction Exemption; §139.13, concerning Resales under SEC Rule 144 and Rule 145(d); §139.14, concerning Non-Issuer Sales; §139.15, concerning Credit Enhancements; §139.16, concerning Sales to Individual Accredited Investors; §139.18, concerning Dealer and Investment Adviser Use of the Internet To Disseminate Information on Products and Services; §139.19, concerning Accredited Investor Exemption; §139.20, concerning Third Party Brokerage Arrangements on Financial Entity Premises; §139.21, concerning Dealer, Agent, and Securities Exemptions for Canadian Accounts; §139.22, concerning Exemption for Investment Adviser to a High Net Worth Family Entity; §139.23, concerning Registration Exemption for Investment Advisers to Private Funds; §139.24, concerning Charitable Organizations Assisting Economically Disadvantaged Clients with Texas Qualified Tuition Program Plans; §139.26, concerning Intrastate Crowdfunding Exemption for SEC Rule 147A Offerings; and §139.27, concerning Mergers and Acquisitions Dealer Exemption. The nonsubstantive amendments are made pursuant to the Agency's periodic review of its rules.

The references to sections of the Texas Securities Act (Act) in §§139.1, 139.8 - 139.16, 139.18 - 139.24, 139.26, and 139.27 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171). The rest of the amendments make other nonsubstantive and cleanup changes.

Section 139.2 is amended to capitalize "Board" and "Commissioner" for consistency. Section 139.2 is also amended to reference the section of the Texas Business Organizations Code where the existing cite in the rule concerning professional associations has been moved.

Sections 139.10, 139.13, 139.16, 139.19, 139.23, and 139.26 are amended to replace the references in those sections to

the term "Securities and Exchange Commission" with the term "SEC." SEC is already a defined term in §107.2, concerning Definitions.

Section 139.7(b) is amended to add the word "internet" to the means that an offer or sale can be made under this rule. In addition, the words "or her" are added to §139.7 for consistency.

The language in subsection §139.16(e), which sets forth the content of the rule's limited use advertisement requirement, is updated to reflect the current SEC definition of "individual accredited investor." A parenthetical in subsection (g) is deleted to conform to the preferred format for multiple references to a rule within a rule.

Section 139.18 is amended to replace the outdated term "dealer agent" with "agent."

Section 139.20 contains a cross reference to §109.17 of this title (relating to Banks under the Securities Act, §5.L). This caption of this cross reference to §109.17 is renamed, and the incorrect capitalization of "under" and "the" in the caption is corrected.

Sections 139.23, 139.26, and 139.27 is also amended for consistency to reformat the citations in these sections to the SEC rules and to add a missing "--" to §139.23(a)(6).

Statutory references are current and accurate and conform to the codified version of the Act; and terminology and references are updated.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Government Code, §§4002.151, 4004.001, and 4005.024, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 4004.001 provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule. Section 4005.024 provides that the Board may prescribe new exemptions by rule.

The adopted amendments affect the Texas Securities Act, Texas Government Code Chapter 4003, Subchapters A, B, and C; Chapter 4004; and Chapter 4005, Subchapters A and B.

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 October 25, 2024.

TRD-202405041
Travis J. Iles
Securities Commissioner
State Securities Board
Effective date: November 14, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 305-8303

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) repeals 16 Texas Administrative Code (TAC) §24.361, relating to Municipal Rates for Certain Recreational Vehicle Parks, with no changes to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6665) and will not be republished, and adopts new 16 TAC §24.50, relating to Rates for Certain Recreational Vehicle Parks, with changes to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6664) and will be republished. The rule implements Texas Water Code (TWC) §13.152 as added by Senate Bill (SB) 594 during the Texas 88th Regular Legislative Session. The new rule will require a retail public utility, other than a municipally owned utility (MOU), that provides water or sewer service to a recreational vehicle park to ensure that billing for the service is based on actual water usage recorded by the retail public utility. The new rule will also prohibit a retail public utility, other than an MOU, from imposing a surcharge based on the number of recreational vehicle or cabin sites in the recreational vehicle park. The repeal and new rule are adopted under Project Number 56828.

The commission received comments on the proposed new rule from the Texas Rural Water Association (TRWA).

Proposed §24.50(a) - Definitions

Proposed §24.50(a) defines certain terms in the rule.

TRWA suggested adding a definition of "cabin" that also includes tiny homes. TRWA stated that the new law has created confusion and that it had received questions regarding the definition of "cabin" and whether that definition includes "tiny homes."

Commission Response

The commission disagrees with adding a definition of "cabin" because it is unnecessary. "Cabin" is a commonly understood term that does not need further specification for purposes of this rule. The word "cabin" in TWC §13.152(b)(2) describes a site within a recreational vehicle park that has a water connection and is distinguishable from a recreational vehicle site. It is not a standalone concept. A recreational vehicle park that has water connections for recreational vehicles may also have connections for other types of habitation, such as cabins. The purpose of the term "cabin" in TWC §13.152(b)(2) is to clarify that the prohibition on imposing a surcharge applies to all water connections within a recreational vehicle park, not just those for recreational vehicles.

The commission also declines to include the term "tiny home" in the rule for the reasons above and because "tiny home" is an ambiguous term that could be classified in different ways, depending upon a particular tiny home's features (e.g., is it stationary, or mounted on a chassis).

The commission further clarifies the intended application of this rule by modifying the definition of "recreational vehicle park" to align with how that term is defined in TWC §13.087. Specifically,

the adopted definition states that a recreational vehicle park is designed "primarily for recreational vehicle transient guest use." Accordingly, regardless of whether a cabin includes a "tiny home," the key factor determining whether the rule applies is whether the location is primarily intended to service recreational vehicles.

Proposed §24.50(b) - Municipally owned utilities providing nonsubmetered master metered utility service

Under proposed §24.50(b), a municipally owned utility that provides nonsubmetered master metered utility service to a recreational vehicle park must determine the rates for that service on the same basis that it uses to determine the rates for other similar commercial businesses. The commission modifies the rule to reflect that such utilities are also prohibited from charging a recreational vehicle park a fee that the utility does not charge other commercial businesses. This prohibition already applies to municipally owned utilities under TWC § 13.087(b-1). Accordingly, this modification does not impose any new burdens on municipally owned utilities and prevents confusion over the applicable requirements.

Proposed §24.50(c) - Billing based on actual water usage data

Proposed §24.50(c) requires that a retail public utility, other than an MOU, ensure that billing for service is based on actual water usage recorded by the retail public utility.

TRWA suggested adding a sentence to the rule that would allow a retail public utility providing sewer service to use the best means available for determining the actual water usage of an RV park for billing purposes when actual water usage data is not available to that utility. TRWA argued that some sewer service providers do not have access to actual water usage data, and that the commission's rules already allow some retail public utilities to calculate customers' sewer service bills based on best available data (16 TAC §24.165(f)).

Commission Response

The commission declines to modify the rule to allow a retail public utility providing sewer service to use the best means available to determine actual water usage when actual water usage data is not available, as requested by TRWA. The plain language of TWC §13.152(b) explicitly states that "a retail public utility...providing water or sewer service to a recreational vehicle park...shall ensure that billing for the service is based on actual water usage recorded by the retail public utility" (emphasis added). Accordingly, this requirement already applies to retail public utilities providing water and sewer service by statute, and the commission does not have authority to overrule or circumvent explicit statutory requirements by rule.

In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

SUBCHAPTER B. RATES AND TARIFFS

16 TAC §24.50

The new section is adopted under the Texas Water Code (TWC) §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; TWC §13.041(b), which provides the commission the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; TWC §13.087, which prescribes municipal rates for certain recreational vehicle parks; and TWC §13.152, which establishes billing requirements for recreational vehicle parks by a retail public utility other than an MOU described by TWC §13.087.

Cross Reference to Statutes: Texas Water Code §§13.041(a) and (b), 13.087, 13.152.

§24.50. Rates for Certain Recreational Vehicle Parks.

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

(1) Nonsubmetered master metered utility service--Potable water service that is master metered but not submetered and wastewater service that is based on master metered potable water service.

(2) Recreational vehicle--Includes a:

(A) house trailer as that term is defined by Texas Transportation Code, §501.002; and

(B) towable recreational vehicle as that term is defined by Texas Transportation Code, §541.201.

(3) Recreational vehicle park--A commercial property that is designed primarily for recreational vehicle transient guest use and for which fees for site service connections for recreational vehicles, as defined by Texas Transportation Code, §522.004(b), are paid daily, weekly, or monthly.

(b) A municipally owned utility that provides nonsubmetered master metered utility service to a recreational vehicle park must determine the rates for that service on the same basis the utility uses to determine the rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered utility service from the utility, and must not charge a recreational vehicle park a fee that the utility does not charge other commercial businesses.

(c) A retail public utility, other than a municipally owned utility to which subsection (b) of this section applies, that provides water or sewer service to a recreational vehicle park:

(1) must ensure that billing for the service is based on actual water usage recorded by the retail public utility; and

(2) is prohibited from imposing a surcharge based on the number of recreational vehicle or cabin sites in the recreational vehicle park.

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 October 25, 2024.

TRD-202405023
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Effective date: November 14, 2024
Proposal publication date: August 30, 2024
For further information, please call: (512) 936-7322

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SUBCHAPTER K. ENFORCEMENT, SUPERVISION, AND RECEIVERSHIP

16 TAC §24.361

The repeal is adopted under the Texas Water Code (TWC) §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; TWC §13.041(b), which provides the commission the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; TWC §13.087, which prescribes municipal rates for certain recreational vehicle parks; and TWC §13.152, which establishes billing requirements for recreational vehicle parks by a retail public utility other than an MOU described by TWC §13.087.

Cross Reference to Statutes: Texas Water Code §§13.041(a) and (b), 13.087, 13.152.

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

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

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION
SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.14

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 1, Subchapter A, §1.14, Negotiated Rulemaking, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5865). The rule will not republished.

The repeal removes a rule that is unnecessary as negotiated rulemaking procedures are laid out in Chapter 2008 of the Texas Government Code.

The Coordinating Board has the authority to repeal this rule under its general rulemaking authority granted by Texas Education Code, Section 61.027.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.027, which provides the Coordinating Board with the authority to adopt and publish rules in accordance with Texas Government Code, Chapter 2001.

The adopted repeal affects Texas Administrative Code, Chapter 1, Subchapter A, Section 1.14, Negotiated Rulemaking.

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

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TRD-202405039
Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6297

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SUBCHAPTER W. OPPORTUNITY HIGH SCHOOL DIPLOMA ADVISORY COMMITTEE

19 TAC §§1.260 - 1.268

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 1, Subchapter W, §§1.260 - 1.268, concerning the Opportunity High School Diploma Advisory Committee, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5865). The rules will not be republished.

The Coordinating Board adopted the establishment of the Opportunity High School Diploma Advisory Committee rule framework to advise and counsel the Coordinating Board and its governing board on the administration of the Opportunity High School Diploma through ongoing, structured review and recommendation of program components. The adopted new rules provide clarity and guidance around committee membership, meeting cadence, and charges.

Specifically, these new sections outline the authority and purpose, definitions, membership and officers, duration of the committee, meeting frequency, committee tasks, review requirement, committee recommendations, and the effective date of the rules.

Rule 1.260, Authority and Specific Purposes of the Opportunity High School Diploma Advisory Committee, authorizes the Coordinating Board to adopt rules under Texas Government Code, §2110.0012 and Texas Education Code, chapter 130, subchapter O. It states that the purpose of this new rule is to create an Advisory Committee to advise and counsel the Commissioner and Board on the Opportunity High School Diploma.

Rule 1.261, Definitions, defines words and terms that are key to the understanding and administration of the Advisory Committee.

Rule 1.262, Committee Membership and Officers, outlines the members that will make up the Advisory Committee. It specifies total number of members, eligibility criteria, membership and officer appointments, and term durations.

Rule 1.263, Duration, sets the term for the Advisory Committee and allows for its re-establishment.

Rule 1.264, Meetings, specifies a minimum of one Advisory Committee meeting per year and allows for special meetings to be called by the presiding officer.

Rule 1.265, Tasks Assigned to the Committee, lists the charges placed on the Advisory Committee to provide to the Board and Commissioner including those relating to general administration of the Opportunity High School Diploma, study and recommendations on program components, and identification of funding to help propagate the program. It also allows for additional charges to be issued by the Board or the Commissioner.

Rule 1.266, Requirement to Review, details the process and cadence to be followed by the Advisory Committee to review the Opportunity High School Diploma instructional outcomes, performance expectations, and assessments.

Rule 1.267, Recommendations, instructs the Advisory Committee to provide recommendations to the Board and Commissioner that help improve the Opportunity High School Diploma program.

Rule 1.268, Effective Date of Rules, states the date when this subchapter becomes effective.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Section 130.001, which provides the Coordinating Board with the authority to adopt rules and regulations for public junior colleges; and §61.026, granting the Coordinating Board authority to establish advisory committees.

The adopted new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter W.

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

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Nichole Bunker-Henderson
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Texas Higher Education Coordinating Board
Effective date: November 14, 2024
Proposal publication date: August 9, 2024
For further information, please call: (512) 427-6344

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CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

SUBCHAPTER G. APPROVAL PROCESS FOR NEW DOCTORAL AND PROFESSIONAL DEGREE PROGRAMS

19 TAC §2.143

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 2, Subchapter G, §2.143, Submission of Planning Notification, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5867). The rule will not be republished.

The adopted amendments provide an exception to the one-year waiting period after submitting a planning notification for professional programs if the institution has already received Board approval for the same degree or is acquiring the program from another public, private, or independent institution of higher education. This amendment will permit a faster path toward program approval for a program that has already been previously approved by the Board or is fully accredited and currently operating. There is a reduced need for long-term planning for a program that is currently in existence or operating. An institution is unlikely to need a full year to plan because it does not need to create the program, i.e. the program may require modification, but the essential elements required by board rule should already be in place for an approved or operating program.

Texas Education Code, §61.0512, states that a public institution of higher education may not offer any new degree program, including doctoral and professional degrees, without Board approval.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Sections 61.051 and 61.0512, which provide that no new degree program may be added at any public institution of higher education except with specific prior approval of the Coordinating Board.

The adopted amendments affect Texas Education Code, Sections 61.051 and 61.0512.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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Proposal publication date: August 9, 2024
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SUBCHAPTER O. APPROVAL PROCESS AND REQUIRED REPORTING FOR SELF-SUPPORTING DEGREE PROGRAMS

19 TAC §§2.350 - 2.358

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 2, Subchapter O, §§2.350 - 2.352 and 2.355 - 2.357, Approval Process and Required Reporting for Self-Supporting Degree Programs, without changes to the proposed text as published in the May 10, 2024, issue of the *Texas Register* (49 TexReg 3085). The rules will not be republished. Sections 2.353, 2.354 and 2.358 are adopted with changes and will be republished.

The new rules replace existing rules regarding approval of self-supported courses and programs in Chapter 4, Subchapter Q, relating to Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions, which will be

repealed under separate rule making. Self-supporting courses and programs have historically been integrated into distance education rules and processes despite self-supporting education not necessarily being delivered off-campus or through distance education. This separate subchapter emphasizes that regardless of the delivery method, self-supporting courses and programs have specific requirements to which they must adhere.

Rule 2.350, Purpose, establishes the purpose of the subchapter, to provide rules and regulations for public institutions of higher education delivering self-supporting programs.

Rule 2.351, Authority, contains the legal authority for Chapter 2, Subchapter O, which is contained in Texas Education Code, §§61.0512(c), 61.059(a), and 61.051.

Rule 2.352, Definitions, provides key definitions related to self-supporting programs and program funding models. Additional general definitions related to program approval can be found in Chapter 2, Subchapter A, §2.3.

Paragraph (1) ("Degree Program Funding Model") provides clarity for the field as to what is being referenced in the rules.

Paragraph (2) ("Formula Funded Degree Program"), and paragraph (5) ("Self-Supporting Degree Program") provides definitions that emphasize that an entire degree program or just a track within an existing degree program is subject to requirements based on the funding model for the degree or track.

Paragraph (3) ("Formula Funding"), amended from §4.272 with additional Education Code references.

Paragraph (4) ("Self-Supporting Courses and Programs"), amended from §4.272 to clarify that they are funded through assessment of fees to the student.

Rule 2.353, Standards and Criteria for Delivery of Self-Supporting Courses and Programs, establishes basic criteria for institutions to adhere to when delivering self-supporting programs. This section amends and simplifies existing standards criteria in §§4.274 - 4.277 and limits standards and criteria to those applicable only to self-supporting courses, certificates, and degree programs.

Rule 2.354, Approval of New Self-Supporting Programs and Tracks, outlines the process for applying for a new degree program with a self-supported funding model or with a self-supported track embedded in the new proposed program. To streamline requirements for institutions, institutions include the funding model information and costs for the degree program in the new degree program request form. This process is already in place through the Coordinating Board's new program approval forms.

Rule 2.355, Approval of Changes to Degree Program Funding Models, outlines the process for institutions to request changes to an existing approved degree program's funding model. Clarity added here emphasizes that a degree program funding model change could be changing the funding model entirely or adding a new funding model track to the degree program. The intent of this clarity is to (1) recognize that changing or adding a funding structure of a program is a significant departure from how the program was originally approved and (2) to ensure any new costs to the program for students is still in alignment with the existing general criteria for program approval as outlined in §2.5 of this subchapter relating to General Criteria for Program Approval.

Previous rules approved by the Board in January 2023, and effective September 1, 2023, specify that changing a funding model of a degree program is a substantive change and therefore changes to degree program funding models must adhere to requirements in §2.9(a)-(b) of this subchapter relating to Revision and Modifications to an Approved Program.

Rule 2.356, Modifications and Phase Out of Self-Supporting Programs, clarifies that requests to phase out or modify existing self-supporting programs, other than as outlined in §2.355, institutions shall follow the same requirements as outlined in §2.9 of this subchapter relating to Revision and Modifications to an Approved Program.

Rule 2.357, Reporting of Self-Supporting Courses, Certificates and Degree Programs, amends current required reporting for self-supporting programs in the CBM 00X as currently outlined in §4.274(5)-(6) and clarifies that required reporting includes courses in self-supported tracks of degree programs. There has been limited reporting of existing self-supporting courses in degrees and tracks across the state despite this reporting currently being a requirement in rule. To maintain an up-to-date program inventory for public institutions, the Coordinating Board must collect the appropriate information from institutions.

Rule 2.358, Effective Dates, lists the effective dates for each rule section.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Rule 2.353 is amended to include language related to minimum tuition and fees required for self-supporting courses and programs. This language was inadvertently left out of the original rule. The Coordinating Board did receive a comment requesting that this continue to be omitted from the rules, however upon legal review, it was determined that there are no exceptions for self-supporting programs in Texas Education Code, Chapter 54, relating to Tuition and Fees.

Rule 2.354(a)(1) is amended to correct formatting of Chapter 2 cite.

Rule 2.358 is amended to correct rule effective date section references and update the timeline to ensure that adoption of self-supporting rules does not happen in the middle of an academic semester, and that mandatory reporting requirements are delayed for one year to ensure the agency and the institutions have time to implement the reporting requirements.

The following comment was received regarding the adoption of the new rule:

Comment: The University of Texas System submitted a request to continue to omit language in the current rules from the new rules related to requiring institutions to charge a minimum tuition and fees for self-supporting programs.

Response: Upon legal review, it was determined that there are no exceptions for self-supporting programs in Texas Education Code, Chapter 54, relating to Tuition and Fees.

The new sections are adopted under Texas Education Code (TEC), §61.0512(c), which charges the Coordinating Board with ensuring that proposed academic programs have adequate financing from legislative appropriations or other sources of funding. TEC, §61.059(a), also charges the Coordinating Board to implement funding policies that allocate resources efficiently and provide incentives for programs of superior quality and

provide incentives for supporting the master plan developed under TEC, §61.051.

The adopted new sections affect Texas Education Code, §§61.051, 62.051(c), and 61.059(a).

§2.353. Standards and Criteria for Delivery of Self-Supporting Courses and Programs.

An institution of higher education enrolling students in a self-supporting course or program shall:

(1) Comply with the standards and criteria of one of the THECB-recognized regional accrediting organizations as defined in §4.192 of this chapter (relating to Recognized Accrediting Organizations);

(2) Ensure each instructional site for a self-supporting program be of sufficient quality for the programs and courses offered;

(3) Provide each student with equivalent academic support services as a student enrolled in a formula-funded course or program;

(4) Select and evaluate faculty by equivalent standards, review, and approval procedures used by the institution to select and evaluate faculty responsible for formula funded courses and programs; and

(5) Charge tuition and fees for self-supporting courses, degree programs, and program tracks not less than required by Texas Education Code, chapter 54, Tuition and Fees.

§2.354. Approval of New Self-Supporting Programs and Tracks.

(a) Requests for Self-Supporting Status for New Programs.

(1) A Public Community or Technical College, Public University, or Health Related Institution may request Coordinating Board approval to offer a degree program or track under self-supporting status in its application materials for the proposed program. The determination of self-supporting status will be approved according to the same approval levels required for the proposed new program approval outlined in chapter 2 of this title (relating to Academic and Workforce Education) and any applicable criteria under this subchapter.

(2) Board Staff will evaluate the request for self-supporting status according to:

(A) Program Approval. A proposed new program, including one that is self-supported or has a proposed self-supporting track, is subject to approval according to the criteria listed in §2.5 of this subchapter (relating to General Criteria for Program Approval).

(B) Self-Supporting Status. An institution that proposes to offer a degree program as self-supporting is subject to the additional criteria and approval under this subchapter.

(b) Approval. If the request for self-supporting status is approved for the new degree program, Coordinating Board staff will add the program to the institutions' inventory of programs maintained and publicly available for each public institution.

§2.358. Effective Dates.

(a) Sections 2.350 - 2.356 are effective May 15, 2025.

(b) Section 2.357 is effective November 1, 2025.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Effective date: November 14, 2024
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For further information, please call: (512) 427-6182

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CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER G. STRATEGIC PLANNING AND GRANT PROGRAMS RELATED TO EMERGING RESEARCH AND/OR RESEARCH UNIVERSITIES

19 TAC §§5.120 - 5.122

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 5, Subchapter G, §§5.120 - 5.122, concerning the purpose and authority, definitions, and submission of a strategic plan for achieving recognition as a research university, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5868). The rules will not be republished.

This repeal removes these rules from Chapter 5 with the intent to place them in Chapter 15, Research Funds, to group rules related to research. The Coordinating Board intends to adopt a separate forthcoming subchapter relating to the submission of the required strategic plans and update the rules for clarity for the institutions.

The Coordinating Board has statutory authority to adopt rules relating to the submission of long-term strategic plans for research or emerging research universities under Texas Education Code, Section 51.358.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 51.358, which provides the Coordinating Board with the authority to adopt rules to administer the submission of long-term strategic plans for research or emerging research universities.

The adopted repeal affects Texas Education Code, Section 51.358.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Effective date: November 14, 2024
Proposal publication date: August 9, 2024
For further information, please call: (512) 427-6344

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CHAPTER 10. GRANT PROGRAMS
SUBCHAPTER B. FAMILY PRACTICE RESIDENCY PROGRAM

19 TAC §§10.50 - 10.58

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter B, §§10.50, 10.52 - 10.55, and 10.57, Family Practice Residency Program, with changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6129). The rules will be republished. Sections 10.51, 10.56, and 10.58 are adopted without changes and will not be republished.

The new rules are a revision of existing rules in Chapter 6, Subchapter A, which will be repealed in future rulemaking after the current grant cycle is completed. The new rules include updated sections to ensure consistency with the administration of other grant programs. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 10.50, Purpose, establishes the purpose for the subchapter is to administer the Family Practice Residency Program grant designed to improved organization and consistency for Coordinating Board grant program rules overall, and improved rules for the application, review, and awarding of funds of the Family Practice Residency grant program.

Rule 10.51, Authority, establishes authority for this subchapter is found in Texas Education Code, Sections 61.501 - 61.506, which grants the Coordinating Board with authority to adopt rules to administer the grant program.

Rule 10.52, Definitions, defines terms related to administration of the grant program.

Rule 10.53, Eligibility, establishes eligibility criteria to receive grant funding.

Rule 10.54, Application Process, describes the main criteria that must be included in the grant application.

Rule 10.55, Evaluation of Applications, establishes selection criteria for awards.

Rule 10.56, Grant Awards, establishes how grant funding is awarded and defines allowable expenditures.

Rule 10.57, Reporting, establishes reporting requirements for grantees.

Rule 10.58, Additional Requirements, establishes criteria for returning unspent funds at the end of the grant term.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Section 10.50, Purpose, is amended to include clarification of which requests for applications the new subchapter applies to.

Section 10.52, Definitions, is amended to add paragraphs (6), (10), and (13) support grant program definitions to clarify the different components of the program. Paragraph (7), Medicalluy Underserved, is amended per the recommendation of the Texas Medical Association.

Section 10.53, Eligibility, is amended by replacing proposed eligibility language with current eligibility language based on stakeholder feedback that the current eligibility language is clearer.

Section 10.54, Application Process, is amended to provide clarity on terms not well defined.

Section 10.55(b)(1), Evaluation of Applications, is amended to provide clarity on what type of evidence is required for the evaluation of applications by the advisory committee.

Section 10.57, Reporting, is amended to replace Support Program with Faculty Support Program.

The following comments were received regarding the adoption of the new rules:

Comment from the Texas Medical Association (TMA) regarding section 10.52(6), definition of "medical school:" TMA expressed concerns that the proposed definition does not include the UT Tyler School of Medicine and two other private medical schools. TMA proposed adding a specific reference to UT Tyler's medical school as well as the two additional private medical schools that are potentially eligible for grants from the FPRP.

Response: The Coordinating Board thanks the Texas Medical Association (TMA) for its comment but cannot deviate from current statute regarding section 10.52(6), definition of "medical school" in the proposed rules.

Comment from the Texas Medical Association (TMA) regarding section 10.52(7), definition of "medically underserved:" TMA expressed concerns that the proposed definition's origins and validation of the proposed methodology are not provided. TMA indicated it is not aware of any entity that currently uses this methodology and that background information on the origin and validation of this methodology should be made available to the public. TMA offered an alternative definition below:

(7) Medically Underserved - Patient populations that experience challenges in accessing medical services due to the lack of adequate health insurance coverage or no insurance coverage, who have a low economic status as can reasonably be determined by the residency program, or experience other access barriers such as a shortage of available services. Access barriers may be demonstrated through references to existing federal designations such as a Medically Underserved Area, as that term is defined in Tex. Gov't Code §487.251.

Response: The Coordinating Board thanks TMA for the comment and agrees to accept this proposed definition.

Comment from Texas Medical Association regarding section 10.52(11), definition of "support grant program:" TMA expressed concerns about the lack of clarity in the definition.

Response: The Coordinating Board thanks the TMA for its comment and agrees to amend section 10.52, Definitions, to remove a general definition of "support grant program" and add the following specific definitions of types of support grant programs.

Faculty Support Grant is an annual, renewable grant to support an ongoing statewide program to encourage research and leadership development of faculty of Texas family practice residency programs. The advisory committee may recommend funding amounts for faculty support grants.

Add Definitions:

Rural Rotation Reimbursement Grant is a grant to reimburse program costs, recognize participation, and encourage rural practice location for resident physicians in training at nationally accredited Texas family practice residency programs. Funding is provided to offset costs associated with residents completing an optional one-month rotation in a rural setting in Texas.

Public Health Rotation Reimbursement Grant is a grant to reimburse program costs, recognize participation, and encourage future public health commitments for residents in training at nationally recognized Texas family practice residency programs. Funding is provided to offset costs associated with residents completing an optional one-month rotation in a public health setting in Texas.

Comment from Texas Medical Association (TMA) regarding section 10.53, Eligibility: TMA expressed concerns that the existing eligibility in the current grant rules are more clearly defined and should be retained. TMA also expressed concerns that the term "viability" in the proposed rules which it suggested has a different meaning than in the current language. TMA provided alternative rule language that was a modified version of the current rules.

Response: The agency agrees to amend the language to clarify eligibility criteria in section 10.53, Eligibility, as follows:

(a) To be considered for a Family Practice Residency Operational Grant, a medical school, licensed hospital, or nonprofit corporation requesting an Operational Grant must at a minimum:

(1) Show that the residency program is accredited by the Accreditation Council for Graduate Medical Education (ACGME) as a family practice residency program;

(2) Conform to Board criteria and expenditure reporting guidelines for a Family Practice Residency Operational Grant;

(3) Provide evidence that the residency program has been operational for three or more academic years immediately preceding the application for funds;

(4) Document continuing local financial support for the program;

(5) Document expenditures and revenue for the program to substantiate funding needs; and

(6) Submit annual progress reports on the training program to the Coordinating Board that demonstrate the training program's efforts to recruit residents likely to practice in medically underserved areas of the state and the program's encouragement of residents to enter practice in medically underserved areas of the state.

(b) A Faculty Support Grant may be provided to a medical school, licensed hospital, or nonprofit corporation to operate and maintain the Family Practice Faculty Development Center. The Center may be supported through federal, state, and other funds. To be considered for a Faculty Support Grant, a medical school, licensed hospital, or nonprofit corporation must:

(1) Conform to Board guidelines for Family Practice Residency Faculty Support Grant Programs;

(2) Give evidence that the program to be funded has been operational for three or more academic years immediately preceding the application for funding; and

(3) Report on the expenditure of Faculty Support Grant funds in the Annual Expenditure Report.

(c) Requirements for Rural or Public Health Reimbursement Grants.

(1) Submit notification of a resident's intent to complete a rural or public health rotation, two-months prior to the beginning of the rotation;

(A) Provide evidence that the program sponsored a resident in a rural or public health rotation;

(B) Submit evaluations and request for funds upon completion of the rotation;

(C) Document expenditures for reimbursement in accordance with Board guidelines; and

(D) Report on receipt and expenditures information on completed rural rotations on the Annual Expenditure Report.

Comment from Texas Medical Association (TMA) regarding 10.54, Application Process: TMA seeks clarification on terms in this section not well defined.

Response: The Coordinating Board thanks TMA for its comment and has amended section 10.54, as follows, to improve clarity for items not well defined in the Application Process.

(a) Operational Grants.

(1) An eligible program must submit an application to the Board. Each application must:

(A) be submitted electronically in a format specified by the Board;

(B) be submitted with documented approval of the President or Chief Executive Officer or designee on or before the day and time specified by the Coordinating Board.

(2) Applications must include:

(A) The projected number of family practice residents enrolled if grant funds are awarded;

(B) A budget that includes resident compensation, professional liability and other direct resident costs; and

(C) Evidence of support for the residency program by the entity receiving the grant.

(b) Rural or Public Health Reimbursement Grants.

(1) Submit notification of a resident's intent to complete a rural or public health rotation, two-months prior to the beginning of the rotation;

(A) Provide evidence that the program sponsored a resident in a rural or public health rotation; and

(B) Submit evaluations and request for funds upon completion of the rotation.

Comment from Texas Medical Association (TMA) regarding section 10.55, Evaluations of Applications: TMA expressed concerns about use of the term "evidence-based determination."

Response: The agency thanks TMA for its comment and agrees to amend the language in section 10.55(b)(1) as follows: "Evidence that the proposed program will be able to effectively pro-

vide medical care in medically underserved areas and training to family practice residency physicians."

The new sections are adopted under Texas Education Code, Sections 61.501 - 61.506, which provide the Coordinating Board with rulemaking authority for administration of the grant program.

The adopted new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 10, Subchapter B.

§10.50. Purpose.

The purpose of this subchapter is to implement the Family Practice Residency Program to administer awards to Texas medical schools, licensed hospitals, or nonprofit corporations aimed to increase the number of physicians selecting family practice as their medical specialty and to fulfill the goal of increasing access to medical care in medically underserved communities in Texas. This subchapter applies to any request for applications distributed on or after November 1, 2024, for the associated grant program.

§10.52. Definitions.

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

(1) Advisory Committee--The Family Practice Residency Advisory Committee as created and described in Texas Education Code §61.505.

(2) Approved Family Practice Residency Program--A family practice residency program, as described in Texas Education Code, §61.501(2).

(3) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(4) Commissioner--The Texas Commissioner of Higher Education.

(5) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board and its staff.

(6) Faculty Support Grant--An annual, renewable grant to support an ongoing statewide program to encourage research and leadership development of faculty of Texas family practice residency programs. The advisory committee may recommend funding amounts for faculty support grants.

(7) Medical school--An eligible medical institution as identified in Texas Education Code, §61.501(1).

(8) Medically Underserved--Patient populations that experience challenges in accessing medical services due to the lack of adequate health insurance coverage or no insurance coverage, who have a low economic status as can reasonably be determined by the residency program, or experience other access barriers such as a shortage of available services. Access barriers may be demonstrated through references to existing federal designations such as a Medically Underserved Area, as that term is defined in Tex. Gov't Code, §487.251.

(9) Operational Grant--An annual, renewable grant to support the educational activities of a fully accredited family practice residency programs.

(10) Public Health Rotation Reimbursement Grant--A grant to reimburse program costs, recognize participation, and encourage future public health commitments for residents in training at nationally recognized Texas family practice residency programs. Funding is provided to offset costs associated with residents completing an optional one-month rotation in a public health setting in Texas.

(11) Resident Physician--A physician contractually obligated to a Texas medical school, Texas licensed hospital, or non-profit corporation operating in Texas to receive residency education and training for a specified period.

(12) Rural--A location in Texas that is eligible for Federal Office of Rural Health Policy grant programs.

(13) Rural Rotation Reimbursement Grant--A grant to reimburse program costs, recognize participation, and encourage rural practice location for resident physicians in training at nationally accredited Texas family practice residency programs. Funding is provided to offset costs associated with residents completing an optional one-month rotation in a rural setting in Texas.

(14) Urban--Any area in Texas that is not rural, as defined in this section.

§10.53. Eligibility.

(a) To be considered for a Family Practice Residency Operational Grant, a medical school, licensed hospital, or nonprofit corporation operating in Texas requesting an Operational Grant must at a minimum:

(1) Show that the residency program is accredited by the Accreditation Council for Graduate Medical Education (ACGME) as a family practice residency program;

(2) Conform to Coordinating Board criteria and expenditure reporting guidelines for a Family Practice Residency Operational Grant;

(3) Provide evidence that the residency program has been operational for three or more academic years immediately preceding the application for funds;

(4) Document continuing local financial support for the program;

(5) Document expenditures and revenue for the program to substantiate funding needs; and

(6) Submit annual progress reports on the training program to the Coordinating Board that demonstrate the training program's efforts to recruit residents likely to practice in medically underserved areas of the state and the program's encouragement of residents to enter practice in medically underserved areas of the state.

(b) A Faculty Support Grant may be provided to a medical school, licensed hospital, or nonprofit corporation operating in Texas to operate and maintain the Family Practice Faculty Development Center. The Center may be supported through federal, state, and other funds. To be considered for a Faculty Support Grant, a medical school, licensed hospital, or nonprofit corporation operating in Texas must:

(1) Conform to Coordinating Board guidelines for Family Practice Residency Faculty Support Grant Programs;

(2) Give evidence that the program to be funded has been operational for three or more academic years immediately preceding the application for funding; and

(3) Report on the expenditure of Faculty Support Grant funds in the Annual Expenditure Report.

(c) Requirements for Rural or Public Health Reimbursement Grants. To be reimbursed for a family practice resident's rural or public health rotation, a Texas family practice residency program must:

(1) Submit notification of a resident's intent to complete a rural or public health rotation, two-months prior to the beginning of the rotation;

(2) Provide evidence that the program sponsored a resident in a rural or public health rotation;

(3) Submit evaluations and request for funds upon completion of the rotation;

(4) Document expenditures for reimbursement in accordance with Board guidelines; and

(5) Report on receipt and expenditures information on completed rural or public health rotations on the Annual Expenditure Report.

§10.54. Application Process.

(a) Operational Grants.

(1) An eligible program must submit an application to the Coordinating Board. Each application shall:

(A) be submitted electronically in a format specified by the Coordinating Board;

(B) be submitted with documented approval of the President or Chief Executive Officer or designee on or before the day and time specified by the Coordinating Board.

(2) Each applications must include:

(A) The projected number of family practice residents enrolled if grant funds are awarded;

(B) A budget that includes resident compensation, professional liability and other direct resident costs; and

(C) Evidence of support for the residency program by the entity receiving the grant.

(b) Rural or Public Health Reimbursement Grants. A Texas family practice residency program must:

(1) Submit notification of a resident's intent to complete a rural or public health rotation, two-months prior to the beginning of the rotation;

(2) Provide evidence that the program sponsored a resident in a rural or public health rotation; and

(3) Submit evaluations and request for funds upon completion of the rotation.

§10.55. Evaluation of Applications.

(a) Applications for Family Practice Residency Program grants shall be reviewed and evaluated by the Family Practice Residency Advisory Committee.

(b) The Advisory Committee's review shall include the following:

(1) Evidence that the proposed program will be able to effectively provide medical care in medically underserved areas and training to family practice residency physicians;

(2) Existing and anticipated costs and funding for new and existing programs requesting funding; and

(3) The program's performance in:

(A) improving the distribution of family physicians throughout the state;

(B) providing care to medically underserved urban or medically underserved rural areas of Texas; and

(C) encouraging residents to practice in medically underserved urban or medically underserved rural areas of the state.

(c) The Advisory Committee shall submit their recommendations to the Board for approval and funding of Operational, Reimbursement and Faculty Support Grant Programs.

§10.57. Reporting.

(a) Each grantee shall file program narrative, expenditure, and resident roster reports in a format on or before the day and time specified by the Coordinating Board.

(b) No later than ninety (90) days after the end of the Operational Grant or Faculty Support Grant Program, the grantee shall conduct a post award audit. The post award audit shall include a review of program goals and grant expenditures. To fulfill this requirement, a grantee shall submit the following reports to the Coordinating Board:

(1) A final narrative report on the grant program's efforts to recruit residents likely to practice in medically underserved urban or medically underserved rural areas of the state and the program's encouragement of residents to enter practice in medically underserved urban or medically underserved rural areas of the state addressing the needs of communities or regions; and

(2) A final expenditure report for all expended grant funds. The final expenditure report must include an attestation from Grantee that all expenditures were allowable expenses pursuant to law and regulation.

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

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Nichole Bunker-Henderson
General Counsel
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For further information, please call: (512) 427-6182

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SUBCHAPTER H. TEXAS EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM

19 TAC §§10.170 - 10.179

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter H, Texas Emergency and Trauma Care Education Partnership Program, §10.170, with changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6132). The rule will be republished. Sections 10.171 - 10.179 are adopted without changes and will not be republished.

The new rules are a revision of existing rules in Chapter 6, Subchapter E, which will be repealed in future rulemaking after the current grant cycle is completed. The new rules include updated sections to ensure consistency with administration of other grant programs. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 10.170, Purpose, establishes the purpose for the subchapter is to administer the Texas Emergency and Trauma Care Education Partnership Program.

Rule 10.171, Authority, establishes authority for this subchapter is found in Texas Education Code, §§61.9801 - 61.9807, which grants the Coordinating Board with authority to adopt rules to administer the grant program.

Rule 10.172, Definitions, defines terms related to administration of the grant program.

Rule 10.173, Eligibility, establishes eligibility criteria to receive grant funding.

Rule 10.174, Application Process, describes the main criteria that must be included in the grant application.

Rule 10.175, Evaluation of Applications, establishes selection criteria for awards.

Rule 10.176, Grant Awards, establishes how grant funding is awarded and defines allowable expenditures.

Rule 10.177, Reporting, establishes reporting requirements for grantees.

Rule 10.178, Additional Requirements, establishes criteria for returning unspent funds at the end of the grant term.

Rule 10.179, Administrative Costs, provides direction on how funds can be appropriated for administrative costs of the grant program.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Rule 10.170, Purpose, is amended to include clarification of which requests for applications the new subchapter applies to.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Chapter 61, Subchapter HH, Sections 61.9801 - 61.9807, which provide the Coordinating Board with rulemaking authority for administration of the grant program.

The adopted new sections affect Texas Education Code, Sections 61.9801 - 61.9807.

§10.170. Purpose.

The purpose of this subchapter is to administer the Texas Emergency and Trauma Care Education Partnership Program to provide and oversee grants to eligible entities to meet the needs of the state of Texas for doctors and registered nurses. This subchapter applies to any request for applications distributed on or after November 1, 2024, for the associated grant 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.

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SUBCHAPTER J. MINORITY HEALTH RESEARCH AND EDUCATION GRANT PROGRAM

19 TAC §§10.210 - 10.218

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter J, Minority Health Research and Education Grant Program. Section 10.210 is adopted with changes to the proposed rule text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6135). The rule will be republished. Sections 10.211 - 10.218 are adopted without changes and will not be republished.

The new rules are a revision of existing rules in Chapter 6, Subchapter C, §6.74, which will be repealed in future rulemaking. The new rules include updated sections to ensure consistency with the administration of other grant programs. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 10.210, Purpose, establishes the purpose for the subchapter is to administer the Minority Health Research and Education Grant Program.

Rule 10.211, Authority, establishes authority for this subchapter is found in Texas Education Code, §§63.301 - 63.302, which provide the Coordinating Board with authority to adopt rules to administer the grant program.

Rule 10.212, Definitions, defines terms related to administration of the grant program.

Rule 10.213, Eligibility, establishes eligibility criteria to receive grant funding.

Rule 10.214, Application Process, describes main criteria that must be included in the grant application.

Rule 10.215, Evaluation of Applications, establishes selection criteria for awards.

Rule 10.216, Grant Awards, establishes how grant funding is awarded and defines allowable expenditures.

Rule 10.217, Reporting, establishes reporting requirements for grantees.

Rule 10.218, Additional Requirements, establishes criteria for returning unspent funds at the end of the grant term.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Rule 10.210, Purpose, is amended to include clarification of which requests for applications the new subchapter applies to.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Sections 63.301 - 63.302, which provide the Coordinating Board with the authority to adopt rules to administer the Minority Health Research and Education Grant Program.

The adopted new sections affect Texas Administrative Code, Chapter 10, Subchapter J.

§10.210. Purpose.

The purpose of this subchapter is to administer the Minority Health Research and Education Grant Program to eligible entities to meet the needs of the state of Texas. This subchapter applies to any request for applications distributed on or after November 1, 2024, for the associated grant 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.

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SUBCHAPTER K. NURSING, ALLIED HEALTH AND OTHER HEALTH-RELATED EDUCATION GRANT PROGRAM

19 TAC §§10.230 - 10.238

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 10, Subchapter K, Nursing, Allied Health and Other Health-Related Education Grant Program. Sections 10.230, 10.233, and 10.238 are adopted with changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6137) and will be republished. Sections 10.231, 10.232, and 10.234 - 10.237 are adopted without changes and will not be republished.

The new rules are a revision of existing rules in Chapter 6, Subchapter C, §6.73, which will be repealed in future rulemaking. The new rules include updated sections to ensure consistency with the administration of other grant programs. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 10.230, Purpose, establishes the purpose for the subchapter is to administer the Nursing, Allied Health and Other Health-Related Education Grant Program.

Rule 10.231, Authority, establishes authority for this subchapter is found in Texas Education Code, §§63.201 - 63.203, which grant the Coordinating Board with authority to adopt rules to administer the grant program.

Rule 10.232, Definitions, defines terms related to administration of the grant program.

Rule 10.233, Eligibility, establishes eligibility criteria to receive grant funding.

Rule 10.234, Application Process, describes main criteria that must be included in the grant application.

Rule 10.235, Evaluation of Applications, establishes selection criteria for awards.

Rule 10.236 Grant Awards, establishes how grant funding is awarded and defines allowable expenditures.

Rule 10.237, Reporting, establishes reporting requirements for grantees.

Rule 10.238, Additional Requirements, establishes criteria for returning unspent funds at the end of the grant term.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Section 10.230, Purpose, is amended to include clarification of which requests for applications the new subchapter applies to.

Section 10.233, Eligibility, is amended to align with statutory eligibility criteria through 2027.

Section 10.238, Additional Requirements, subsection (c) is amended to mirror requirements in Chapter 10, Subchapter J (concerning Minority Health Research and Education Grant Program).

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Sections 63.201 - 63.203, which grant the Coordinating Board with authority to adopt rules to administer the grant program.

The adopted new sections affect Texas Administrative Code, Chapter 10, Subchapter K.

§10.230. Purpose.

The purpose of this subchapter is to administer the Nursing, Allied Health and Other Health-Related Education Grant Program to provide and oversee grants to eligible entities to meet the needs of the state of Texas. This subchapter applies to any request for applications distributed on or after November 1, 2024, for the associated grant program.

§10.233. Eligibility.

(a) General Eligibility.

(1) Eligible institutions include public institutions of higher education that offer upper-level academic instruction and training in the fields of nursing, allied health, or other health-related education.

(2) Institutions or components identified under Texas Education Code, §§63.002(c) and 63.101, are not eligible to receive funding through the grant program.

(3) Eligible programs include nursing, allied health or other health-related initiatives, including those that expand existing academic programs, develop new or existing activities and projects, and are not funded by state appropriation during the funding period.

(b) Alternative eligibility criteria through August 31, 2027.

(1) For the fiscal biennium ending on August 31, 2025, and the fiscal biennium ending on August 31, 2027, eligible programs include programs at two-year institutions of higher education, four-year

general academic teaching institutions, health-related institutions, and independent or private institutions of higher education, or a nursing resource section established under §105.002(b) of the Health and Safety Code that prepare students for initial licensure as registered nurses or programs preparing qualified faculty members with a master's or doctoral degree.

(2) The Coordinating Board shall prioritize institutions proposing to address the shortage of registered nurses by:

(A) Preparing students for initial licensure as registered nurses; or

(B) Preparing qualified faculty members with a master's or doctoral degree.

(c) Institutions and programs shall meet any other eligibility criteria set forth in the RFA.

§10.238. Additional Requirements.

(a) A grant award is automatically terminated if the grantee is placed on probation by the Texas Board of Nursing or loses its status as an approved professional nursing program. The grantee shall immediately return all unexpended grant funds.

(b) Each grantee shall return any award funds remaining unspent at the end of the grant term as set forth in the RFA or Notice of Grant Agreement (NOGA) to the Coordinating Board within ninety (90) calendar days after written demand or an earlier due date if specified by the RFA.

(c) Each grantee shall return or repay to the Coordinating Board any award funds that the State determines an eligible institution improperly expended on items not listed in the RFA or otherwise prohibited by law within the time frame and subject to the requirements set forth in the RFA.

(d) The Commissioner may take the following actions if a grantee fails to comply with requirements set forth in the RFA:

(1) Reduce the grant award;

(2) Require the grantee to return unspent grant funds;

(3) Amend the grant agreement; or

(4) Terminate the grant agreement.

(e) The RFA may set forth additional return or reimbursement of fund requirements and termination provisions.

(f) The Coordinating Board may retain returned and reimbursed funds for the next RFA.

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

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CHAPTER 12. OPPORTUNITY HIGH SCHOOL DIPLOMA PROGRAM

SUBCHAPTER A. OPPORTUNITY HIGH SCHOOL DIPLOMA PROGRAM

19 TAC §§12.3, 12.5, 12.7, 12.8, 12.10 - 12.12

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments and new sections in Title 19, Part 1, Chapter 12, Subchapter A, Opportunity High School Diploma Program, §12.5 and §12.11, with changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5869). The rules will be republished. Sections 12.3, 12.7, 12.8, 12.10, and 12.12 are adopted without changes and will not be republished.

The adopted amendments provide additional information and guidance on program components, institutional requirements, and administration of the program.

The Coordinating Board adopts amendments to the Opportunity High School Diploma Program rules to provide additional guidance regarding the program application and approval processes for institutions seeking to offer the Opportunity High School Diploma program; detail the instructional outcomes and performance expectations for the five competencies listed in §12.5(c) of this subchapter; provide clarity on the approval and publishing of assessments to determine student achievement; list institutional reporting requirements; establish ongoing review and revision of the program; and outline program revocation guidelines.

Rule 12.3, Definitions, is amended to add definitions for Application and Career and Technical Education, and to update the definition for Public School District.

Rule 12.5, Program Requirements, is amended to clarify the type of career and technical education programs that are permissible for concurrent enrollment purposes. The amendment also specifies where the required instructional outcomes and performance expectations for each of the five core program competencies will be detailed and establishes the approved assessments.

Rule 12.7, Program Approval Process, is amended to provide additional information on the application process that eligible entities must follow to qualify for consideration to offer the Opportunity High School Diploma. The amendment also notes that the maximum number of program approvals shall not exceed what is set forth in Texas Education Code, §130.454(c).

Rule 12.8, Required Reporting, is amended to detail the required reporting a participating public junior college will have to submit to the Coordinating Board including data and information requirements, additional reports, and report submission schedule.

Rule 12.10, Approval of a Request to Deliver an Opportunity High School Diploma Program, details the approval process that the Coordinating Board must follow once an application to offer an Opportunity High School Diploma program has been received. It sets forth a timeline for Assistant Commissioner and Commissioner approval, denial, or allowance for an institution to address deficiencies in a proposed diploma program. The rule also outlines an appeals process and respective timeline for denied applications and sets forth an implementation period for approved programs.

Rule 12.11, Program Review and Revision, instructs the Coordinating Board to convene the Opportunity High School Diploma

Advisory Committee no less than one time per year to review and recommend revisions to the instructional outcomes, performance expectations, and assessments. It details where the Coordinating Board shall list approved revisions and instructs approved colleges to update or revise their programs accordingly and provide documentation of such within ninety days.

Rule 12.12, Revocation of Authorization, states the Commissioner's authority to revoke a college or consortium's authorization to offer an Opportunity High School Diploma. It lists the factors that can lead to revocation, sets a requirement for a written notice of proposed revocation or revocation status, grants the right to a hearing and details the process and timelines for such, and allows for appeal of a revocation to the Board.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Rules 12.5(c) and 12.11(c)(1) are updated to reflect an updated URL address where the instructional outcomes and performance expectations for the five core program competencies are detailed.

Rule 12.5(d)(4) replaces Figure 19 TAC §12.5(d)(4) due to technical corrections applied to the approved assessments.

No comments were received regarding the adoption of the amendments and new rules.

The amendments and new sections are adopted under Texas Education Code, Section 130.458, which provides the Coordinating Board with the authority to adopt rules as necessary to implement the Opportunity High School Diploma Program.

The adopted amendments and new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 12, Subchapter A, Sections 12.3, 12.5, 12.7, 12.8, and 12.10 - 12.12.

§12.5. Program Requirements.

(a) General Requirements. The Opportunity High School Diploma Program is an alternative competency-based high school diploma program to be offered for concurrent enrollment to an adult student without a high school diploma who is concurrently enrolled in a career and technical education program at a public junior college. The program may include any combination of instruction, curriculum, internships, or other means by which a student may attain the knowledge sufficient to adequately prepare the student for postsecondary education or additional workforce education.

(b) A student shall be concurrently enrolled in a program that is defined as a CTE certificate in §2.262 of this title (relating to Certificate Titles, Length, and Program Content), other than a Level 2 Certificate, Enhanced Skills Certificate, or an Advanced Technical Certificate.

(c) Curricular Requirements. An approved public junior college shall embed required instructional outcomes and performance expectations in the program. A public junior college may also add curricular elements designed to meet regional employers' needs or specific workforce needs. Required instructional outcomes and performance expectations are detailed at https://reportcenter.highered.texas.gov/contracts/workforce-education/opportunity-high-school-diploma-instructional-outcomes-and-performance-expectations/ for the five core program competencies. Core program competencies shall include:

(1) Quantitative Reasoning, including the application of mathematics to the analysis and interpretation of theoretical and real-world problems to draw relevant conclusions or solutions.

(2) Communication Skills, including reading, writing, listening, speaking, and non-verbal communication.

(3) Civics, including the structure of government, processes to make laws and policies, constitutional principles of checks and balances, separation of powers, federalism, and rights and responsibilities of a citizen.

(4) Scientific Reasoning, including problem-solving that involves forming a hypothesis, testing the hypothesis, determining and analyzing evidence, and interpreting results.

(5) Workplace Success Skills, including dependability, adaptability, working with others, initiative, resilience, accountability, critical thinking, time management, organizing, planning, problem-solving, conflict resolution, and self-awareness.

(d) Prior Learning and Program Completions. A public junior college approved to offer this program shall determine each student's competence in each of the five core program competencies set out in subsection (c) of this section prior to enrolling the student in the program of instruction and upon the student's completion of the program of instruction.

(1) The program of instruction assigned to each student will be based on the student's prior learning and assessments of the student's competencies for each of the five core program competencies set out in subsection (c) of this section. An institution may determine that a student has satisfied required learning outcomes for one or more core program competencies based on the student's prior learning.

(2) An institution may use any of the following methods as documentation of a student's prior learning in the five core program competencies:

(A) transcripted high school grades;

(B) transcripted college credit;

(C) achievement on a national standardized test such as the SAT or ACT;

(D) credit earned through military service as recommended by the American Council on Education; or

(E) demonstrated success on pre-program assessments.

(3) The Commissioner shall identify, consider, and approve assessments, in consultation with the Texas Workforce Commission, to be used by a public junior college to determine a student's successful achievement of the five core program competencies and completion of the program.

(4) Assessments approved by the Commissioner are listed in Figure 1.
Figure: 19 TAC §12.5(d)(4)

(5) A public junior college that is approved to offer the program shall use an approved assessment to evaluate each student's competence in the five core program competencies as required under subsection (c) of this section.

(e) Instructional Outcomes. A public junior college that is approved to offer the program shall embed the required instructional outcomes into their curriculum as required under subsection (c) of this section.

(f) Performance Expectations. A public junior college that is approved to offer the program shall embed the performance expectations into their curriculum as required under subsection (c) of this section.

(g) Location of Program. Subject to approval under this subchapter, a public junior college may enter into agreement with one or more public junior colleges, general academic teaching institutions, public school districts, or nonprofit organizations to offer this program. The public junior college may offer this program at any campus of an entity subject to an agreement to offer this program.

(h) Award of High School Diploma. A public junior college participating in the program shall award a high school diploma to a student enrolled in this program if the student satisfactorily completes an approved assessment that provides evidence of competence in the five core program requirements as required under this rule. A high school diploma awarded under this program is equivalent to a high school diploma awarded under Texas Education Code, §28.025.

§12.11. Program Review and Revision.

(a) The Coordinating Board shall convene the Opportunity High School Diploma Advisory Committee not less than annually to review the instructional outcomes, performance expectations, and assessments for each of the five core program competencies.

(b) The Advisory Committee shall recommend revisions to the instructional objectives, performance expectations, and assessments to the Commissioner.

(c) The Commissioner shall consider the Advisory Committee's recommendations.

(1) Upon approval by the Commissioner, the revised instructional outcomes and performance expectations pertaining to §12.5(c) of this subchapter (relating to Program Requirements) shall include the date of approval and be posted at https://reportcenter.highered.texas.gov/contracts/workforce-education/opportunity-high-school-diploma-instructional-outcomes-and-performance-expectations/.

(2) Upon approval by the Commissioner, the revised list of assessments pertaining to §12.5(d)(4) of this subchapter shall include the date of approval and be detailed in Figure 1 of this subchapter.

(d) A public junior college approved to offer the Opportunity High School Diploma shall update or revise its program as necessary to meet any approved revisions and provide documentation to Coordinating Board of such revisions within ninety days of the effective date.

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

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER G. TUITION AND FEES

19 TAC §13.122

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rule in Title 19, Part 1, Chapter 13, Subchapter G, §13.122, Tuition and Fees, with changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5457). The rule will be republished.

This new section outlines the manner in which nonresident tuition rates are established, including an alternate nonresident tuition rate that general academic teaching institutions may request to use.

The Coordinating Board is authorized to adopt rules as necessary for the administration of nonresident tuition rates by Texas Education Code (TEC), Section 54.075. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board makes reports of negotiated rulemaking committees available upon request.

Rule 13.122(a) indicates the authorizing statutes for the creation of this new rule.

Rule 13.122(b) indicates the definitions necessary for the administration of this new rule, aligning to other proposed published rules pertaining to different types of campuses.

Rule 13.122(c) indicates that nonresident tuition rates provided by the applicable provisions of Texas Education Code, Chapters 51 and 54, including those outlined throughout rule 13.122, apply to any student who does not demonstrate residency, regardless of citizenship, as dictated by Texas Education Code, §54.051(m).

Rule 13.122(d) indicates the timing of when the Coordinating Board will publish the annual nonresident tuition rate and summarizes the students to whom the nonresident rate applies. This subsection replaces rule 21.2(a), which is proposed for repeal.

Rule 13.122(e) indicates the manner by which the Coordinating Board will calculate the nonresident tuition rate, as dictated by Texas Education Code, §54.051(d). This subsection replaces rule 21.2(b), which is proposed for repeal.

Rule 13.122(f) indicates the manner in which the Coordinating Board administers Texas Education Code, §54.0601. The Coordinating Board used negotiated rulemaking to develop this subsection of the new rule.

Paragraph (1) indicates the conditions under which a general academic teaching institution may request to use the alternate nonresident tuition rate at its parent institution (defined in rule 2.383). Eligibility to request to use the alternate nonresident tuition rate at the parent institution is based on the parent institution's 100-mile proximity to the border of Texas and another U.S. state. It is not based on the geographic location of an off-campus educational site. If approved, the alternate nonresident tuition rate applies only to the general academic teaching institution's on-campus students (defined in rule 2.383). If a student qualifies for the alternate nonresident rate, then the rate may be applied to any of the student's coursework at the general academic teaching institution. This level of detail is provided to help ensure consistent administration of the rule across the multiple general academic teaching institutions eligible to participate.

Paragraph (2) indicates the conditions under which a general academic teaching institution may request to use the nonresident tuition rate at its off-campus educational site(s) (defined in rule 2.383). The Board included a separate subsection for off-campus educational sites to provide clarity that the request and approval process, along with the applicability of the alternate tuition rate, is unique to the specific site. Eligibility to request to use the alternate nonresident tuition rate at an off-campus edu-

cational site is based on that site's location within 100-miles of a border between Texas and another U.S. state and is requested separately from the parent institution. An off-campus educational site is eligible for consideration if the site offers at least one off-campus degree program (defined in rule 2.383). If approved, the alternate nonresident tuition rate applies only to the general academic teaching institution's eligible off-campus students (defined in rule 2.383) whose off-campus degree program is offered through the off-campus educational site. If a student qualifies for the alternate nonresident rate, then the rate may be applied to any of the student's coursework at the general academic teaching institution. This level of detail is provided to help ensure consistent administration of the rule across the multiple general academic teaching institutions eligible to participate.

Paragraph (3) indicates that the alternate nonresident tuition rate applies only to those nonresident students for whom the Coordinating Board is responsible for calculating a nonresident tuition rate, as determined by Texas Education Code, §54.051.

Paragraph (4) indicates the impact that using an alternate nonresident tuition rate will have on the calculation of formula funding, as dictated by Texas Education Code, §61.059.

Paragraph (5) indicates the process by which institutions may request to use the alternate nonresident tuition rate. Such a request can be understood as having three main components: methodology, scope, and rationale. First, institutions will provide a methodology by which they will calculate the alternate nonresident tuition rate. This methodology can be for a full biennium (i.e. a calculable relationship between the alternate nonresident rate and other tuition rates), or institutions may submit annual requests with discrete alternate nonresident tuition rates. Second, the institution also must define the scope of its use of the alternate nonresident tuition rate. This includes the specific educational site for which the request is being made (institutions with multiple eligible education sites must submit separate requests for each) and state(s) from which nonresident students would receive the requested alternate rate. The alternate nonresident tuition rate is limited to students who reside in a U.S. state of which any portion is within a 135-mile radius of the educational site for which the request is being submitted. This operationalizes guidance previously provided by the Coordinating Board after the statute was originally created. The Coordinating Board views this restriction as a reasonable measure to prevent unreasonable harm to other institutions of higher education. Finally, institutions also must provide their justification for requesting the alternate rate by providing explanations of why offering the rate is in the best interest of the institution and why it would not cause unreasonable harm to another institution, which are required by statute. This information will be used in the Coordinating Board's review and approval process.

Paragraph (6) indicates the Coordinating Board's review and approval process for requests. The Coordinating Board may deny or approve the request, in whole or in part, within 30 calendar days of receiving the request. Institutions may not offer or publish the alternate rate until after they have received approval from the Coordinating Board.

Paragraph (7) indicates the minimum allowable nonresident tuition rate, which is consistent with the minimum rate established in rule 21.2264(d), which is proposed for repeal.

Paragraph (8) indicates that institutions will continue to report the use of the alternate nonresident tuition rate as a waiver to minimize any potential impact on long-standing reporting requirements.

Paragraphs (9) through (11) allow students who were previously granted the alternate tuition rate to continue to receive the rate under subsection (f) if they may no longer qualify following adoption of the proposed rule. These subsections provide a "grandfathering" period through the 2029-2030 academic year, while institutions realign their practices with the new rule. The grandfathering period is established to minimize the financial impact of the rule change on current students, and it requires that the student stay continuously enrolled and that the institution continues to be approved for the alternate nonresident tuition rate.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Subsection (b) was updated to include the full definitions for the terms rather than cite to §2.383 of this title. This change was made because the adoption of §2.383 has been delayed, so the citation would not yet be operative. The definitions included are identical to those posted for public comment for proposed §2.383 and were presented in this form to the negotiated rulemaking committee. The committee reached consensus on using these definitions.

Subsection (f)(5) was updated to correct an error in the citation.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The adopted new section affects Texas Education Code, Sections 54.051 and 54.0601.

§13.122. Determination of Tuition Rate for Nonresident Students.

(a) Authorizing Statute. The Coordinating Board's responsibilities regarding tuition rates for nonresident students are authorized through Texas Education Code, §54.051, "Tuition Rates," and §54.0601, "Nonresident Tuition Rates at Certain Institutions," and the Coordinating Board is authorized to adopt rules by §54.075.

(b) The following words and terms, when used in this section, shall have the following meanings:

(1) Off-Campus Degree Program--A degree program that delivers fifty (50) percent or more of required instruction or coursework in-person at an off-campus educational site.

(2) Off-Campus Educational Site--A location where an institution delivers required instruction for a credit-bearing course, certificate, or degree program in person. For a public university, health-related institution, or a Lamar state college, an off-campus educational site is any location outside the parent institution. For a community college (public junior college), an off-campus educational site is a site outside the public junior college service area. An off-campus educational site includes, but is not limited to:

(A) Branch Campus--For a university, a major, secondary location of an institution offering multiple programs usually with its own administrative structure and usually headed by a dean. A branch campus must be established by the Legislature or approved by the Board. A junior college branch campus is approved and operated in accordance with Texas Education Code, chapter 130, subchapter K, and Board rules.

(B) Extension Center--For Texas State Technical College, as defined in §11.3(5) of this title (relating to Definitions), a site, operating under the administration of a campus, that has an extension program.

(C) Multi-Institution Teaching Center (MITC)--For a university, an off-campus educational unit administered under a memorandum of understanding (MOU) between two or more institutions of higher education. It may also involve one or more private or independent institution of higher education. It has minimal administration and locally provided facilities.

(D) Regional Academic Health Center (RAHC)--A special purpose campus of a parent health-related institution(s) that may be used to provide undergraduate clinical education, graduate education, including a residency training program, or other level of medical education in specifically identified counties.

(E) Single Institution Center--An off-campus educational unit administered by a single parent institution. It has minimal administration and locally provided facilities.

(F) Special Purpose Campus--A major, secondary location of an institution offering programs related to specific and limited field(s) of study, usually with its own administrative structure and usually headed by a dean. Regional Academic Health Centers are considered special-purpose campuses. Special Purpose Campuses must be established by the Legislature or approved by the Board.

(G) University System Center (USC)--An off-campus educational unit administered by a single university system comprised of two or more of the system's parent institutions. A memorandum of understanding must be established between all parties that governs the operations of the USC. It has minimal administration and locally provided facilities.

(3) Off-Campus Student--A regularly enrolled student who is admitted to an institution and fifty (50) percent or more of the student's instruction is delivered in person at an off-campus location.

(4) On-Campus Student--A regularly enrolled student who is admitted to an institution and fifty (50) percent or more of instruction is delivered at an institution's main campus or on one or more of the campuses within a multi-campus public junior college.

(5) Parent Institution--The primary campus or campuses of an institution of higher education providing courses, certificates, and degree programs at an off-campus educational site.

(c) In accordance with Texas Education Code, §54.051(m), the tuition rates for nonresident students that are provided by the applicable provisions of Texas Education Code, chapters 51 and 54, will be applied to any student who does not demonstrate residency per chapter 21, subchapter B of this title (relating to Determination of Resident Status), regardless of the student's citizenship.

(d) Prior to January 1 of each calendar year in which the academic year begins, or as soon thereafter as is practicable, the Coordinating Board shall determine the minimum nonresident tuition rate per subsection (e) of this section, and report the rate to the appropriate institutions, pursuant to Texas Education Code, §51.051(d). This minimum rate generally applies to nonresident students enrolled in general academic teaching and health-related institutions, unless Texas law provides for a different rate to be applied to a particular program or student.

(e) The minimum nonresident tuition rate set per semester credit hour per subsection (d) of this section, is calculated as dictated by Texas Education Code, §54.051.

(f) Alternate Nonresident Tuition Rate. General academic teaching institutions, as defined by Texas Education Code, §61.003, "Definitions," are eligible to request an alternate nonresident tuition rate that is lower than otherwise calculated by subsection (d) of this section.

(1) A general academic teaching institution may request an alternate nonresident tuition rate if the primary physical address of the parent institution is located within a 100-mile radius of the boundary of Texas with another U.S. state. If approved, this nonresident tuition rate applies only to the institution's on-campus students but includes students taking courses at both the parent institution and its off-campus educational sites.

(2) A general academic teaching institution may request an alternate nonresident tuition rate if the primary physical address of an off-campus educational site offering at least one off-campus degree program is located within a 100-mile radius of the boundary of Texas with another U.S. state. If approved, this nonresident tuition rate applies only to the institution's off-campus students enrolled in an off-campus degree program offered at the approved off-campus educational site but includes students taking courses at both the parent institution and its off-campus educational sites.

(3) The nonresident tuition rate under this subsection may be applied only to nonresident students who would otherwise be charged the minimum nonresident tuition rate or a multiplier of such rate. This includes undergraduate, graduate, law school, nursing and allied health profession, optometry, and undergraduate and graduate pharmacy students. It does not include M.D., D.O., D.D.S, or D.V.M. students.

(4) For an institution that charges a nonresident tuition rate under this subsection, the Coordinating Board may not include in a formula under Texas Education Code, §61.059, "Appropriations," funding based on the number of nonresident undergraduate students enrolled at the institution in excess of 10 percent of the total number of undergraduate students enrolled at the institution.

(5) In order to utilize a nonresident tuition rate under this subsection, the governing board of the institution, or designee if permitted by law, must submit a written request to the Coordinating Board that includes:

(A) the proposed methodology for determining the nonresident tuition rate that the institution will use under this subsection;

(B) the academic year(s) within a legislative biennium for which the general academic teaching institution is requesting approval to use the non-resident tuition rate under this subsection;

(C) the primary physical address of the parent institution or off-campus educational site offering at least one off-campus degree program that is located within a 100-mile radius of the boundary of Texas with another state and at which the general academic teaching institution proposes to use the nonresident tuition rate under this subsection;

(D) the U.S. state or states, of which any portion is within a 135-mile radius of the parent institution or off-campus educational site provided under subparagraph (C) of this paragraph, to whose residents the institution proposes to apply the nonresident tuition rate under this subsection;

(E) an explanation of why offering a nonresident tuition rate under this subsection is in the best interest of the institution; and

(F) an explanation of why offering a nonresident tuition rate under this subsection will not cause unreasonable harm to any other

institution of higher education, as defined by Texas Education Code, §61.003, "Definitions."

(6) The Commissioner shall review the requested tuition rate and determine if it is in the best interest of the institution and whether it would cause harm to any other institution. The Commissioner may deny or approve, in whole or in part, an institution's request, and will communicate his or her decision in writing to the requesting institution within thirty (30) calendar days of the Coordinating Board's receipt of the institution's request. To the extent approved by the Commissioner, the institution shall utilize the nonresident tuition rate under this subsection for residents of the eligible state or states included in the Commissioner's approval during the academic year(s) stated in the approval. Requests must be approved by the Commissioner prior to offering or publishing an alternate nonresident tuition rate to eligible students by the institution.

(7) The nonresident tuition rate approved for a general academic teaching institution by the Coordinating Board under this subsection may not be less than $30 more than the resident tuition rate outlined in Texas Education Code, 54.051(c).

(8) The difference between the nonresident tuition rate set annually by the Coordinating Board, under subsection (c) of this section, and an alternate nonresident tuition rate approved under this subsection shall be reported by the institution as a waiver on relevant Coordinating Board data submissions.

(9) General academic teaching institutions who received Commissioner approval to offer a nonresident tuition rate under former §21.2264 of this title (relating to General Academic Teaching Institutions Located within 100 Miles of the Texas Border) for the 2024 - 2025 academic year prior to August 31, 2024, may continue to offer the approved nonresident tuition rate in the 2024 - 2025 academic year to individuals who qualified and established eligibility pursuant to §21.2264 as it existed prior to repeal.

(10) If an individual received a nonresident tuition rate under former §21.2264 prior to the 2025 - 2026 academic year that was approved by the Commissioner, and is no longer eligible to receive the nonresident tuition rate based on this subsection, then the institution may continue to offer the nonresident tuition rate based on this subsection to that individual if that individual remains continuously enrolled and the institution has Commissioner approval to offer the nonresident tuition rate under this subsection for the applicable academic year.

(11) Paragraph (10) of this subsection expires at the end of 2029 - 2030 academic year.

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

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SUBCHAPTER M. TOTAL RESEARCH EXPENDITURES

19 TAC §§13.302 - 13.305

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter M, §13.303, concerning Total Research Expenditures, with changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5873). The rule will be republished. Sections 13.302, 13.304, and 13.305 are adopted without changes and will not be republished.

Specifically, amendments clarify the reporting of total research expenditures to the Coordinating Board for use in state research funding allocations for the Comprehensive Research Fund, National Research Support Fund, Texas University Fund (TUF), and certain health related institution funding formulas (e.g., research enhancement formula and certain mission specific performance based research formulas). The rules provide direction to general academic teaching institutions with a health related institution that submit a singular annual financial report on how to allocate their research expenditures. The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 13.302, Definitions, lists definitions pertinent to research expenditure reporting. The addition of paragraph (10), "Health Related Institutions," adds a more commonly used term for this category of institutions, improving the readability of the rule, using this term throughout the rules in place of "medical and dental units."

Paragraph (11), "Institutional Fund Expenditures," adds additional detail on Institutional Fund Expenditure sources (tobacco settlement receipts and patient income) and removes language about unrecovered indirect costs. This had been included to align reporting with the National Science Foundation Higher Education Research and Development survey. However, due to institutions' concerns about disclosure of information that could be confidential under state or federal law, the amendment deletes the mandatory collection of data on unrecovered indirect cost.

Paragraph (15), "Private Expenditures," removes language about ineligible expenditures because this is addressed in the research expenditure survey definition in paragraph (19).

Revisions to paragraphs (16), "Research and Development (R&D)," and (18), "Research Expenditures or Expenditures," clarify the language but do not change the meaning.

The amendments to paragraph (19), "Research Expenditures or Expenditures," remove duplicative language, add adjustments for ineligible expenditures, remove unrecovered indirect expenditures, and clarify that the pass-throughs referred to occur in Texas.

A statutory citation is added to paragraph (21), "Sources and Uses Template," for clarity.

Paragraph (23), "State and Local Government Expenditures," is amended to add patient income and its statutory citation because there have been questions about how patient income is categorized.

Paragraph (24), "State of Texas Contracts and Grants," is clarified with the addition of grants to the listing of expenditures in this category.

Rule 13.303, Standards and Accounting Methods for Determining Total Research Expenditures, amendments reorganize the section to clarify that the new subsection (a) applies to all institutions of higher education, replaces expenses with expenditures in all instances, and adds clarifying detail on types of eligible expenditures, such as capital outlay for research equipment. New subsection (b) applies to the general academic teaching institutions with a health related institution that submit a singular annual financial report and provides detail on how to allocate their research expenditures. This methodology takes into account stakeholder feedback, basing the reporting of research expenditures on the appointment of the investigators, and will go into effect beginning with fiscal year 2025. Subsection (c) is the previous subsection (a) language with no substantive change.

Rule 13.304, Reporting of Total Research Expenditures, removes the word "public," since the statutory definition of institution of higher education is a Texas public institution (Texas Education Code, §61.003(8)).

Rule 13.305, Institutional Reporting of Total Research Expenditures by Funding Source, clarifies certain terms, removes the concept of a "narrow" definition of research and development expenditures, and removes reference to unrecovered indirect costs.

Subsequent to the posting of the rules in the *Texas Register*, the following change is incorporated in the adopted rules.

Rule 13.303(b) is amended to clarify the definition of general academic teaching institutions with a health related institution for purposes of reporting research expenditures. The amendment incorporates a reference to the General Appropriations Act to specify exactly which health related institutions are affected.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 62.053, which provides the Coordinating Board with the authority to prescribe standards and accounting methods for determining the amount of total research funds expended.

The adopted amendment affects Texas Education Code, Sections 61.0662, 62.053, 62.095, 62.134, 62.1482.

§13.303. Standards and Accounting Methods for Determining Total Research Expenditures.

(a) Research expenditure reporting for all institutions of higher education. Each institution shall reconcile its research expenditures from the AFR to the total R&D expenditures of the Research Expenditure Survey by a:

(1) Decrease of the AFR total by the amount of R&D expenditures that do not meet the definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey, such as pass-throughs to other general academic teaching institutions, health related institutions, and other agencies of higher education in Texas.

(2) Increase of the AFR total by the amount of recovered indirect costs associated with expenditures for R&D as reported through the Research Expenditure Survey.

(3) Increase of the AFR total by the amount of capital outlay for research equipment, not including R&D plant expenditures or construction.

(4) Increase of the AFR total by the amount of expenditures for conduct of R&D made by an institution's research foundation, or 501(c) corporation on behalf of the institution, and not reported in the institution's AFR, including recovered indirect costs and capital outlay for research equipment.

(5) Increase of the AFR total to include expenditures, including recovered indirect costs and capital outlay for research equipment related to research performed by the agency or institution but reported by a separate agency or institution that received and expended the funding. The agency or institution that received and expended the funding but did not perform the research must make a corresponding decrease of its AFR total for this amount. This accounting event is not a pass-through to subrecipient as defined in §13.302(14) of this subchapter (relating to Definitions).

(b) This subsection applies to the general academic teaching institutions with a health related institution as defined in §13.302(10) of this subchapter (relating to Definitions); that is listed as a health related institution in the General Appropriations Act, Special Provisions Relating only to State Agencies of Higher Education; and that submit a singular annual financial report.

(1) Research expenditures shall be reported separately by the general academic teaching institution and health related institution using a methodology that allocates amounts to the general academic teaching institution and health related institution according to the proportion of the expenditures attributed to the principal investigator and any co-investigators.

(2) The primary appointment of each investigator shall determine to which entity (the general academic teaching institution or health related institution) the investigator's allocated expenditures are assigned and reported.

(3) Subsection (b) of this section will take effect beginning with the reporting of expenditures made during fiscal year 2025.

(c) R&D expenditures for Texas A&M University include consolidated expenditures from Texas A&M University and its service agencies.

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

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CHAPTER 15. RESEARCH FUNDS
SUBCHAPTER C. STRATEGIC PLANNING RELATED TO EMERGING RESEARCH AND RESEARCH UNIVERSITIES

19 TAC §§15.50 - 15.52

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 15, Subchapter C, §§15.50 - 15.52, Strategic Planning Related to Emerging Research and Research Universities, without changes to the

proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5876). The rules will not be republished.

Specifically, the new subchapter replaces the repealed Title 19, Part 1, Chapter 5, Subchapter G, §§5.120 - 5.122, concerning Strategic Planning and Grant Programs Related to Emerging Research and/or Research Universities. The new language updates certain definitions and gives authority to the Commissioner to determine the requirements for research strategic plans submitted to the Coordinating Board.

Rule 15.50, Purpose and Authority, describes the purpose and authority of the subchapter.

Rule 15.51, Definitions, defines the terms used in the rule. Revisions update certain definitions to the most current terminology. Paragraph (3) is a new definition for the Coordinating Board to specify distinct actions taken by the agency or staff that are separate from actions taken by the governing board of the Texas Higher Education Coordinating Board. Paragraph (4), Research Strategic Plan, modifies the definition to prescribe that the specifications of the plan are approved by the Commissioner of Higher Education, per the delegation of the Board in rule 15.52(a).

Rule 15.52, Submission of a Strategic Plan for Achieving Recognition as a Research University, describes the process, required minimum elements of a plan, and timing for submission of a research strategic plan. The amendments to previous rule language clarify that the Board delegates authority to the Commissioner to determine the required elements of the plan. The rule prescribes that, at a minimum, the plan must include elements relating to an institution's research enterprise, doctoral programs, and faculty. These elements provide a broad guideline for the Commissioner to then approve additional or more specific requirements for the institutions. By providing the authority for the Commissioner to designate the required elements of the report, the Commissioner may consider current statewide needs and trends rather than maintaining a static list of elements.

The rule prescribes that these elements be approved by the Commissioner by October 1 the year prior to the required submission date, which is set at April 1, 2025. Setting a starting date for the submission of plans and a future schedule within the rule provides clarity for institutions on when the reports are due on a standard timeline.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Education Code, Section 51.358, Long-Term Strategic Plan for Research University or Emerging Research University, which provides the Coordinating Board with the authority to adopt rules for the administration of the section.

The adopted new sections affect Texas Education Code, Section 51.358.

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

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CHAPTER 17. RESOURCE PLANNING

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §17.3

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 17, Subchapter A, §17.3, Definitions, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5878). The rule will not be republished.

Changes from existing definitions include the removal of the following definitions:

Educational and General (E&G) Building Replacement Estimate (existing paragraph (11)) and Institution-Wide Building Replacement Estimate (existing paragraph (12)), as these will now be included with the definition for the Building Replacement Estimate Report (as listed below).

Campus Master Plan (existing paragraph (14)), as the current methodology for capturing capital planning is within the Capital Expenditure Plan definition.

Committee (existing paragraph (19)) as the Board no longer has a Committee review facilities projects.

Energy Systems (existing paragraph (27)) as no longer in use.

Project Review (existing paragraph (47)) as the Board does not conduct project reviews.

Adopted rules add the following new definitions:

Paragraphs (8) and (20) specify two distinct entities: "Board," meaning the nine-member appointed governing body of the Texas Higher Education Coordinating Board and "Coordinating Board," meaning the state agency, including agency staff, as a whole. Separating these terms improves the readability and precision of the rules contained in Chapter 17 and allows the Coordinating Board to make a distinction between actions taken by the governing body and the agency, including agency staff, as a whole.

Paragraph (31), Health-related institution, adds a definition for a health-related institution as defined by Texas Education Code, §61.003(5).

Paragraph (51), Space Projection Model, adds a definition for the Space Projection Model, as it is a required report under rule 17.100(1) and is currently used by the Legislature for formula funding and facilities related purposes. It also is used as a standard by which a facilities project is reviewed by an institution's Board of Regents.

Adopted amendments to existing definitions include the following:

Paragraph (10), Building Efficiency, and paragraph (52), Space Use Efficiency, amend the definitions of both rules to specify the language use of the word "efficiency", since the term is used in two different ways. Paragraph (10) adds the word "building"

to specify that this definition is referring to building efficiency, whereas, paragraph (52) adds the word "efficiency" to clarify that this definition is referring to "space usage efficiency", a report that is a required under rule 17.100(2).

Paragraph (11), Building Replacement Estimate Report, adds more detail as to whom the audience of the report is and how the report Is calculated.

Paragraph (12), Campus Condition Report, adds more detail as to whom institutions should provide the report to in accordance with Texas Education Code, §61.05821.

Paragraph (14), Capital Expenditure Plan (MP1), includes an additional project type (information resource project) to match projects as listed in rule 17.101, regarding Institutional Reports.

Paragraph (27), Facilities Audit, redefines the definition of an audit to clarify what is included and the authority reference that audits fall under.

Paragraph (13), Capital Construction Assistance Projects, renames the former Tuition Revenue Bonds Project to Capital Construction Assistance Projects as provided for in Texas Education Code, §55.111 and §§55.171 - 55.17991.

Adopted changes to the Texas Administrative Code, Chapter 17, Section A, §17.3, also provide subsequent reorganization and renumbering.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Chapter 17.

The adopted new section affects Texas Administrative Code, Chapter 17, Subchapter A, §17.3.

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

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19 TAC §17.3

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 17, Subchapter A, §17.3, Definitions, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5877). The rule will not be republished.

The Coordinating Board intends to adopt a separate rule relating to definitions to reorganize and improve readability and accuracy of the definitions used for resource planning. The Coordinating Board has statutory authority to adopt rules relating to resource planning and facilities under Texas Education Code, §§61.0572 and 61.058.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Chapter 17.

The adopted repeal affects Texas Administrative Code, Chapter 17, Section A, §17.3, Definitions.

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

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SUBCHAPTER B. REPORTING REQUIREMENTS

19 TAC §17.20, §17.21

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 17, Subchapter B, Reporting Requirement, §17.20 and §17.21, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5881). The rules will not be republished.

The adopted amendments clarify terminology used in this subchapter and align the rule more closely with statute and practice.

Rule 17.20(a) and (b) and rule 17.21(1), (2), and (4) add the term "Coordinating" before the existing nomenclature of "Board" to align with definition changes in Subchapter A that specify the three distinct entities of the Board, Coordinating Board, and Board staff. This amendment clarifies the roles and responsibilities of each entity in rule.

Rule 17.20(a)(3) updates the property purchases reporting threshold from $1 million to $5 million to align with the reporting threshold update established in Section 11.03 of the FY 2024-25 General Appropriations Act.

Rule 17.21, Submission Procedures, removes "and the project complies with applicable state and federal requirements as listed on the form," since the authority to approve a facilities project rests with an institution's Board of Regents under Texas Education Code, Chapter 51, Subchapter T. The Coordinating Board's authority rests in a permissive review of purchases of improved real property (Texas Education Code, §61.0572(d)) and construction, repair, or rehabilitation of buildings and facilities (Texas Education Code, §61.058(b)). The Coordinating Board currently does not review these projects and solely collects data on the facilities projects at institutions of higher education.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Texas Administrative Code, Title 19, Part 1, Chapter 17.

The adopted amendments affect the reporting threshold for improved real property purchases and align Coordinating Board referencing language in congruency with other Board rules.

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

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SUBCHAPTER C. PROJECT STANDARDS

19 TAC §§17.30 - 17.32

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 17, Subchapter C, §§17.30 - 17.32, relating to Project Standards without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5883). The rules will not be republished.

Adopted amendments throughout this subchapter align terminology with forthcoming new definitions in subchapter A, which separate out the meaning of "Board," "Coordinating Board," and "Coordinating Board Staff or Board Staff." Separate definitions improve clarity of roles and responsibilities in Coordinating Board rules.

Rule 17.30(2) and §17.31(2) adds the term "Coordinating" to the existing term "Board" to align with definition changes in Subchapter A that specify the three distinct entities of the Board, Coordinating Board, and Board staff.

Rule 17.30(4)(B)(ii), deletes the term "THECB" and replaces the term with "Board" to align with definition changes in Subchapter A.

Rules 17.30(1), 17.31(1), and 17.32(1) deletes the specificity of the use of "Board's" as it relates to the space projection model, which is defined in Subchapter E under Board reports.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Texas Administrative Code, Title 19, Part 1, Chapter 17.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 17, Subchapter B, §§17.30, 17.31, and 17.32.

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SUBCHAPTER E. REPORTS

19 TAC §17.100, §17.101

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 17, Subchapter E, §17.100 and §17.101, Board Reports and Institutional Reports, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5884). The rules will not be republished.

The adopted amendments align rules with current agency practices related to producing reports for resource planning.

Rule 17.100 provides that the Board delegates to the Commissioner of Higher Education to approve the required reports listed, including the space projection model, space usage efficiency, and construction costs, as required under Texas Education Code, §§61.0572 and 61.058.

Rule 17.100(1), (2), and (3) amend language to define each of the reports and deletes unnecessary language related to each of the reports.

Rule 17.100(1)(A) provides that the existing General Academic Institutions, Technical Colleges, and State Colleges Formula Advisory Committee and Health-Related Institutions Formula Advisory Committee may review the space projection model as part of tasks assigned to the committees in rule 1.169 and 1.176 as the model is currently in use by the legislature in making appropriations to these institutions of higher education. This replaces a provision currently in the rule providing that the Commissioner may convene a separate committee to review the model and streamlines the process using standing advisory committees.

Rule 17.100(2) deletes duplicative language pertaining to the space usage efficiency report.

Rule 17.100(3) adds the term "Coordinating" to the existing term "Board" to align with proposed definition changes in Subchapter A that specify the three distinct entities of the Board, Coordinating Board, and Board staff.

Rule 17.101 amends terminology throughout the rule to align with the proposed definition changes in Subchapter A that specify the three distinct entities of the Board, Coordinating Board, and Board staff. This allows for the specific identification of responsible parties completing each specified action or report.

Rule 17.101(1)(B) includes an additional use of the data, noting that the facilities inventory data may also be used to calculate the construction cost standard.

Rule 17.101(2)(A)(i) - (iv) removes reporting based on specific dollar thresholds with new language that aligns the thresholds in accordance with language from Article IX, General Provisions, Section 11.03, Statewide Capital Planning, of the Fiscal Year 2024-25 General Appropriations Act.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Chapter 17.

The adopted amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 17.

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

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SUBCHAPTER F. FACILITIES AUDIT

19 TAC §§17.110 - 17.114

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 17, Subchapter F, §§17.110 - 17.114, concerning Facilities Audits without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5886). The rules will not be republished.

The adopted amendments update verbiage in the sections listed individually below.

Rules 17.110 and 17.114 update nomenclature from "THECB staff" to "Board staff" and from "THECB" to "Coordinating Board" in alignment with changes to definitions in Subchapter A. The amendments allow for the specific identification of responsible parties completing each specified action or report.

Rule 17.110(a) removes the use of "approved" from facilities development projects as the Coordinating Board does not approve projects and solely collects data on the projects, in accordance with Texas Education Code, §§61.0572 and 61.058. Additional revisions correct terminology related to educational and general facilities.

Rules 17.111(1), 17.112, and 17.113(a) add the term "Coordinating" to the existing term "Board" to align with definition changes in Subchapter A that specify the three distinct entities of the Board, Coordinating Board, and Board staff. The amendments allow for the specific identification of responsible parties completing each specified action or report.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Education Code, Sections 61.0572 and 61.058, which provide the Coordinating Board with the authority to conduct the facilities programs governed by Chapter 17.

The adopted amendments affect Title 19, Part 1, Chapter 17, Subchapter F, §§17.110 - 17.114.

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SUBCHAPTER G. TEXAS STATE TECHNICAL COLLEGE SYSTEM ACQUISITIONS OF LAND AND FACILITIES

19 TAC §17.200

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 17, Subchapter G, §17.200, concerning Texas State Technical College System Acquisitions of Land and Facilities, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5887). The rule will not be republished.

The adopted new section establishes the Texas State Technical College land and facilities projects requiring Coordinating Board approval and the method by which the Coordinating Board would review and consider the projects for approval.

Rule 17.200 ensures a documented approval process for certain Texas State Technical College System land and facilities purchases if the combined value is more than $300,000, in accordance with Texas Education Code, §135.02(c). This differs from facilities related projects at other institutions of higher education for which an institution's Board of Regents has sole authority to approve and the Coordinating Board only receives information on the project.

The rule requires the institution to submit the project in accordance with §17.21, Submission Procedures, and the Coordinating Board to assess the project in accordance with the standards provided under §17.32, Standards for Improved Real Property Purchase Projects.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, §135.02(c), which requires the Coordinating Board to approve certain Texas State Technical College System land and facilities purchases.

The adopted new section affects Title 19, Part 1, Chapter 17, by adding Subchapter G, §17.200.

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

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CHAPTER 21. STUDENT SERVICES
SUBCHAPTER A, GENERAL PROVISIONS

19 TAC §21.2

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter A, §21.2, General Provisions, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5460). The rule will not be republished.

The adopted repeal eliminates a duplicative rule.

Rule 21.2, Determination of Tuition Rate for Nonresident and Foreign Students, is repealed. The provisions of this rule have been incorporated into §13.122 (relating to Determination of Tuition Rate for Nonresident Students) in the new Chapter 13, Subchapter G, Tuition and Fees. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The adopted repeal affects Texas Education Code, Section 54.051.

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SUBCHAPTER SS. WAIVER PROGRAMS FOR CERTAIN NONRESIDENT PERSONS

19 TAC §21.2264

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter SS, §21.2264, Waiver Programs for Certain Nonresident Persons, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5461). The rule will not be republished.

This adopted repeal eliminates a duplicative rule.

Rule 21.2264, General Academic Teaching Institutions Located within 100 Miles of the Texas Border, is repealed. The provisions of this rule have been incorporated into §13.122 (relating to Determination of Tuition Rate for Nonresident Students) in the new Chapter 13, Subchapter G, Tuition and Fees. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The adopted repeal affects Texas Education Code, Section 54.0601.

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

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CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS
SUBCHAPTER H. PROVISIONS FOR THE LICENSE PLATE INSIGNIA SCHOLARSHIP PROGRAM

19 TAC §§22.141, 22.143 - 22.147

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 22, Subchapter H, §22.141 and §§22.143 - 22.147, Provisions for the License Plate Insignia Scholarship Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5462). The rules will not be republished.

The adopted repeal eliminates unnecessary rules and institutional reporting requirements.

Texas Transportation Code, §504.615, establishes the License Plate Insignia Scholarship Program, which allows for the transfer of funds collected by the Texas Department of Motor Vehicles from the purchase of institution-specific specialty license plates to Texas institutions of higher education to provide financial aid to students with need. Texas Administrative Code, Chapter 22, Subchapter H, includes rules related to institutional responsibilities, student eligibility for associated aid, and allocation and disbursement procedures. Upon review, the Coordinating Board has concluded that the necessary provisions for the agency or participating institutions to meet statutory obligations related to the program already exist in statute or elsewhere in the Coordinating Board's rules. Accordingly, repealing the rules in this subchapter does not affect Coordinating Board operations while advancing its interest in eliminating unnecessary institutional reporting requirements.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Transportation Code, Section 504.615, which establishes the License Plate Insignia Scholarship Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

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SUBCHAPTER O. TEXAS LEADERSHIP RESEARCH SCHOLARS PROGRAM

19 TAC §22.301, §22.310

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 22, Subchapter O, §22.301 and §22.310, concerning the Texas Leadership Research Scholars Program, without changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5888). The rules will not be republished.

The adopted amendments clarify the type of institutions eligible to participate and how the allocation of funds is determined.

Texas Education Code (TEC), Chapter 61, Subchapter T-3, requires the Coordinating Board to adopt rules for the administration of the program, including rules providing for the amount and permissible uses of a scholarship awarded under the program. The amended sections provide clarity and guidance to students, participating institutions, and Coordinating Board staff for the program's implementation.

Rule 22.301, Definitions, provides definitions for words and terms within Texas Leadership Research Scholars rules. The definitions provide clarity for words and terms that are integral to the understanding and administration of the Texas Leadership Research Scholars rules. Specifically, the amended section clarifies that general academic institutions are eligible to participate in the Texas Leadership Research Scholars Program.

Rule 22.310, Scholarship Amounts and Allocation of Funds, outlines the scholarship amounts and how the Coordinating Board will allocate the funds to institutions. The rule provides clarification of the statutory requirements related to the minimum amount of the award and how the amount will be calculated to provide clarity for the annual allocation formula for each institution. Specifically, the amended section outlines how the allocation of initial awards will be determined between eligible institutions, clarifying the data used to determine each eligible institution's share of awarded research doctoral degrees, and if there is insufficient funding to award more than seventy-five initial scholarships the awards will be split between public research and emerging institutions. This calculation ensures that initial scholarship awards are being allocated to institutions successfully graduating research doctorates.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.897, which provides the Coordinating Board with the authority to adopt rules as necessary to implement the Texas Leadership Research Scholars Program.

The adopted amendment affects Texas Education Code, Sections 61.891 - 61.897.

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

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SUBCHAPTER Q. TEXAS B-ON-TIME LOAN PROGRAM

19 TAC §22.342

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 22, Subchapter Q, §22.342, Texas B-On-Time Loan Program, with changes

to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5462). The rule will be republished. The changes to the proposed text reflect the addition of subsection (e) regarding institutional reporting requirements.

This new section governs the allocation and use of remaining funds in the Texas B-On-Time Student Loan Account after its abolition. The Coordinating Board is authorized to establish rules as necessary to administer the B-On-Time Student Loan Program under Texas Education Code (TEC), Section 56.0092.

Section 22.342, Appropriation of Funds from Former B-On-Time Student Loan Account, is adopted to establish the allocation methodology and approved uses of funds remaining in the B-On-Time Student Loan Account after its abolition on September 1, 2024, pursuant to Section 4.07 of Senate Bill 30, 88th Legislative Session. The methodology (which was originally agreed upon in a negotiated rulemaking proceeding following the creation of TEC, Section 56.0092, by House Bill 700, 84th Legislative Session but never adopted into rule) allocates funds among institutions that participated in the B-On-Time Program during Fiscal Years 2007 and 2015 proportionately based on each institution's unused tuition set-asides (i.e., total program disbursements less total program set-asides) for the period. Institutions that disbursed more funds than were set aside during the period did not receive an allocation. Allocated funds must be used to increase the number of at-risk students who graduate from the institutions or the rate at which at-risk students graduate from the institution.

No comments were received regarding the adoption of the new rule.

The new section is adopted under Texas Education Code, Section 56.0092, which provides the Coordinating Board with the authority to establish rules as necessary to administer the B-On-Time Loan Program.

The adopted new section affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.342. Appropriation of Funds from Former B-On-Time Student Loan Account.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings:

(1) At-Risk Student--An undergraduate student who has previously received a grant under the federal Pell Grant program, met the Expected Family Contribution (EFC) criterion for a grant under that program, or whose total score on the SAT or the ACT, excluding the optional essay test, is less than the national mean of students' scores on the applicable test.

(2) Eligible Institution--A general academic teaching institution described by Texas Education Code, §56.451(2)(A), or a medical and dental unit described by Texas Education Code §56.451(2)(B), as those paragraphs existed immediately before September 1, 2015.

(3) Total Disbursements--The total amount of tuition set-aside funds disbursed by an eligible institution to students for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(4) Total Set-Asides--The total amount of tuition funds set aside by an eligible institution for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(5) Unused Set-Asides--The amount of funds remaining after subtracting an eligible institution's total disbursements from its total set-asides. If an eligible institution's total disbursements are greater than its total set-asides, the institution's unused set-asides are considered to be zero.

(b) Allocation. After the abolition of the Texas B-On-Time Student Loan Account, the Coordinating Board may allocate any remaining money in the account to eligible institutions. Each eligible institution's proportion of the allocation shall be its unused set-asides divided by the sum of all eligible institutions' unused set-asides.

(c) Verification of Data. Allocation calculations will be shared with all eligible institutions for comment and verification prior to final posting, and the institutions will be given ten (10) working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the B-On-Time disbursements for Fiscal Years 2007 through 2015 or to notify the Coordinating Board in writing of any inaccuracies.

(d) An eligible institution that receives an appropriation of money under this section may use the money only to support efforts to increase the number of at-risk students who graduate from the institution or the rate at which at-risk students graduate from the institution.

(e) Reporting. An eligible institution that receives an appropriation of money under this section shall provide the Coordinating Board with a report documenting the amount of its expenditures from funding received under this section and its adherence to subsection (d) of this section in a manner provided by the Commissioner.

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SUBCHAPTER V. TEXAS SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS CHALLENGE SCHOLARSHIP PROGRAM

19 TAC §§22.570 - 22.577

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 22, Subchapter V, §§22.570 - 22.577, Texas Science, Technology, Engineering, and Mathematics Challenge Scholarship Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5464). The rules will not be republished.

The adopted repeal eliminates the entire subchapter, which is no longer necessary as the program is inoperative.

Texas Education Code, Section 61.9792, provides the Coordinating Board with the authority to adopt rules for the administration of the Texas Science, Technology, Engineering, and Mathematics Challenge Scholarship Program. The program has not been funded and thus has been inoperative for several biennia. Given the number of programs managed by the Coordinating

Board and the agency's interest in informing the public accurately about its programmatic offerings, elimination of these rules will provide greater clarity to the public regarding the availability of student financial assistance.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.9792, which provides the Coordinating Board with the authority to administer the program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

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For further information, please call: (512) 427-6365

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SUBCHAPTER BB. NURSING SHORTAGE REDUCTION PROGRAM RIDER 28 STUDY WORK GROUP

19 TAC §§22.751 - 22.757

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 22, Subchapter BB, §§22.751 - 22.757, Nursing Shortage Reduction Program Rider 28 Study Work Group, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5464). The rules will not be republished.

The adopted repeal eliminates the entire subchapter, which is no longer necessary as the study work group completed its function and is now inoperative.

The General Appropriations Act, HB 1, Article III-56, Section 28, Subsection g, 86th Texas Legislature, directed the Coordinating Board to establish the work group and provided authority to adopt rules to govern its operations. The 24-member work group appointed by the Coordinating Board met six times in 2019 and 2020 and issued its final report in October 2020. Pursuant to rule §22.754 and in accordance with Texas Government Code, Chapter 2110, the work group was abolished thereafter. Accordingly, repeal of these rules will not affect agency operations while advancing the agency's interest in informing the public accurately regarding its programmatic offerings and activities.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.026, which provides the Coordinating Board with the authority to establish and adopt rules relating to advisory committees.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

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

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CHAPTER 23. EDUCATION LOAN REPAYMENT PROGRAMS
SUBCHAPTER B. TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.31 - 23.36

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments and new section in Title 19, Part 1, Chapter 23, Subchapter B, §§23.31 - 23.36, Teach for Texas Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5465). The rules will not be republished.

The adopted amendments and new section align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules. The Coordinating Board is authorized to establish rules as necessary to administer the Teach for Texas Loan Repayment Assistance Program under Texas Education Code (TEC), Section 56.3575.

Rule 23.31 is amended to make conforming edits to the Authority subsection and include the full range of TEC sections related to the program. These changes align language with similar provisions in other subchapters in Chapter 23.

Rule 23.32 is amended to add a clarifying definition for "public school" and to eliminate unnecessary definitions. The definition for "public school" is already the operational definition for the term and is included to further clarify that otherwise eligible teachers at both traditional public and public charter schools may participate in the program. The definition of "Board" is removed after being made duplicative by the inclusion of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions of this chapter. Provisions relating to the education loans of program applicants and participants similarly have been consolidated in §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter, making the definition of "default" in this subchapter unnecessary.

Rule 23.33 is amended to make non-substantive edits to improve clarity and readability. The section is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Reference to "individual" is changed to "applicant"

to conform with usage in other subchapters in the chapter. Eligibility criteria are re-ordered for greater clarity, and the amended rule clarifies that an applicant must have taught full-time for one service period in the last academic year. None of these amendments deviate from current Coordinating Board practice.

Rule 23.34 is amended to clarify the prioritization of eligible applicants when funds are insufficient to offer loan repayment assistance to all eligible applicants. The section is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. The new subsection (b) does not change current prioritization policy but reflects a few clarifying edits to explain potential ambiguities in the current rule language.

Rule 23.35 is created to establish provisions related to the amount of loan repayment assistance available under the program. The new provisions codify the Coordinating Board's current practice of setting the maximum amount of loan repayment assistance annually based on available funding and the number of eligible applicants.

Rule 23.36 is amended to eliminate rule language related to disbursement of loan repayment assistance funds, which now are unnecessary following the creation of §23.3 (relating to Method of Disbursement) in the general provisions of the Chapter 23. The section is retitled to more accurately reflect the section's purpose and to conform with the consistent rule structure and naming convention throughout the chapter. Paragraph (2) codifies the Coordinating Board's practice that the amount of loan repayment assistance may not exceed unpaid principal and interest on an eligible education loan(s). This language is being added to the rules for all Coordinating Board loan repayment assistance programs.

No comments were received regarding the adoption of the new rules and amendments.

The amendments and new section are adopted under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules necessary for the administration of the Teach for Texas Loan Repayment Assistance Program.

The adopted amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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For further information, please call: (512) 427-6365

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19 TAC §23.35

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 23, Subchapter B, §23.35, Teach for Texas Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5467). The rule will not be republished.

The adopted repeal eliminates a duplicative provision. The Coordinating Board is authorized to adopt rules as necessary to administer the program by Texas Education Code (TEC) §56.3575.

Rule 23.35 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Teach for Texas Loan Repayment Assistance Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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SUBCHAPTER C. PHYSICIAN EDUCATION LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.62, 23.65 - 23.68, 23.70, 23.71

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 23, Subchapter C, §§23.62, 23.65 - 23.68, 23.70, and 23.71, Physician Education Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5468). The rules will not be republished.

The adopted amendments align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules.

The Coordinating Board is authorized to establish rules as necessary to administer the Physician Education Loan Repayment Program under Texas Education Code (TEC), Section 61.537.

The subchapter is retitled to conform with the titles of the other subchapters in Chapter 23. Conforming changes to the program title are made throughout the subchapter, specifically in rules 23.62 and 23.71.

Rule 23.62 is amended to make nonsubstantive changes. The appropriate TEC chapter is added to the Authority section to conform with the structure of similar provisions in other subchapters.

Rule 23.65 is amended to eliminate unnecessary definitions and make nonsubstantive, clarifying changes to others. After the creation of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions for this chapter, the definition of "Board" in §23.65 is redundant, with all references to "Board" throughout the subchapter changed to "Coordinating Board." Definitions for "CHIP" and "Federally Qualified Health Center" are eliminated due to being used only once throughout the subchapter, and so have been incorporated contextually when they appear. No adopted changes to this rule affect administration of the program.

Rule 23.66 is amended to simplify program eligibility rules so they more clearly reflect Coordinating Board practice. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program - prompted the Coordinating Board to encumber funds - and then, after completing a service period, becoming eligible for disbursement of those funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the existing subsections (a) and (b), which related to these separate stages, have been combined. Further edits were made to clarify certain eligibility criteria, but the adopted rule changes did not change existing program requirements.

Rule 23.67 is amended to clarify how the Coordinating Board prioritizes disbursement in the event that available funds are insufficient to offer loan repayment assistance to all eligible applicants. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. The adopted changes are not intended to reflect a change in Coordinating Board policy; rather, they are adopted to improve the readability and clarity of the rule. Adopted changes clarify that previously used "highest degree of shortage" language associated with health professional shortage areas (HPSA) is established via the HPSA score of 1 to 25, with higher scores reflecting greater shortage. Subparagraph (3)(B) is clarified to establish that a "rural county" is a county with a population of less than 50,000 persons, which aligns with the Coordinating Board's operational definitions for rural HPSA in this program and "rural county" in other loan repayment programs.

Rule 23.68 is amended to make nonsubstantive edits to provisions related to physicians who establish eligibility for the program based on services to Medicaid or Texas Women's Health Program enrollees. Language in subsection (a) related to a written statement of intent to provide services is eliminated to align with the consolidation of the two-step eligibility process in §23.66. Changes to subsection (b) add detail to current practice related to the Coordinating Board's receipt of Medicaid HMO encounter data from the Health and Human Services Commission.

Rule 23.70 is amended to eliminate outdated provisions related to maximum loan repayment assistance amounts. Existing subsection (a) is eliminated; these provisions related only to individuals who established eligibility for the program before September 1, 2019. Because program eligibility is contingent on consecutive service periods, these provisions are no longer operative and are eliminated. Conforming changes are made throughout the rule.

Rule 23.71 is amended to eliminate unnecessary provisions or potential ambiguities in the program's limitations. Former subsection (b), as with the provisions in §23.70, is outdated and is eliminated without effect. Former subsection (d) simply restates the placement of physicians who qualify for the program via service to Medicaid or Texas Women's Health Program enrollees in the prioritization established in §23.67 and is therefore redundant. Existing subsection (e) is restated as paragraph (3) and clarifies current practice: Good cause for failing to meet program requirements can prevent removal from the program but not non-payment for the service period(s) in question. Subsection (f) was made redundant by the creation of §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of Chapter 23 and is eliminated without effect.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.537, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Physician Education Loan Repayment Assistance Program.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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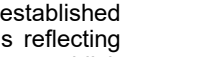

19 TAC §§23.63, 23.64, 23.69, 23.72, 23.73

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 23, Subchapter C, §§23.63, 23.64, 23.69, 23.72, and 23.73, Physician Education Loan Repayment Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5472). The rules will not be republished.

The adopted repeal eliminates rules that have been determined to be unnecessary to the Coordinating Board's operations or duplicative with the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.537.

Rule 23.63 is repealed. The rule's primary purpose is to authorize the Coordinating Board to enter into a memorandum of understanding with the Department of State Health Services. This provision is unnecessary to the administration of the program, and its elimination does not affect Coordinating Board operations.

Rule 23.64 is repealed. The rule directs the Coordinating Board to disseminate information about the program to interested parties, including health-related institutions of higher education, appropriate state agencies, interested professional associations and the public. Outreach to relevant stakeholders is crucial for the success of this and similar programs, but the inclusion of this rule is unnecessary to the administration of the program. Its elimination does not affect Coordinating Board operations.

Rule 23.69 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

Rule 23.72 is repealed. The provisions of this rule have been incorporated into rule §23.3 (relating to Method of Disbursement) in the general provisions of this chapter. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

Rule 23.73 is repealed. The reporting and data collection requirements contained within the rule relate to the Coordinating Board's compliance with an appropriations rider related to the program, most recently Rider 51 (page III-67) within the Coordinating Board's section of the General Appropriations Act (H.B. 1), 88th Texas Legislature, Regular Session. The Coordinating Board has determined that it can continue to meet the requirements of this rider without the rule, which is otherwise unnecessary to the administration of the program. Its elimination does not affect Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.537, which provides the Coordinating Board with the authority to adopt rules as necessary for the administration of The Physician Education Loan Repayment Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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SUBCHAPTER D. MENTAL HEALTH PROFESSIONALS LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.93, 23.94, 23.96, 23.97, 23.100 - 23.102

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules and amendments to Title 19, Part 1, Chapter 23, Subchapter D, §23.97 and §23.100, Mental Health Professionals Loan Repayment Assistance Program, with changes to the proposed text as published in the August 9, 2024, issue of the *Texas Register* (49 TexReg 5890). The rules will be republished. Sections 23.93, 23.94, 23.96, 23.101, and 23.102 are adopted without changes and will not be republished.

The amendments align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules. The new sections consolidate provisions from other rules related to program limitations and specific provisions affecting persons who first established eligibility for the program prior to September 1, 2024. The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.608.

The subchapter is retitled to conform with the titles of the other subchapters in Chapter 23.

Rule 23.93 is amended to make conforming changes to the subchapter title.

Rule 23.94 is amended by removing three unnecessary definitions and unnecessary portions of another definition. After the creation of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions for this chapter, the definition of "Board staff" in §23.94 is redundant, with all references to "Board staff" throughout the subchapter changed to "Coordinating Board." The terms "Local Mental Health Authority" and "Title I school" are used only once each in rule, so the definitions are eliminated and have been incorporated contextually when the terms appear. The definition of "full-time service" is amended to eliminate the listed conditions that constitute eligible service (existing subparagraphs (4)(A) - (D)). These conditions are included in the eligibility criteria described in §23.96 (relating to Eligible Applicants).

Rule 23.94 is further amended by expanding the existing definition of "service period." Specifically, an alternate definition is provided that allows service for at least 9 months of a 12-month academic year by a licensed specialist in school psychology. The existing definition conflicts with the typical employment contract for these individuals, inadvertently disqualifying some otherwise eligible applicants from receiving loan repayment funds. The expanded definition remedies this.

Rule 23.96 is amended to simplify program eligibility rules so they more clearly reflect Coordinating Board practice. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, subsection (a) of this section and repealed §23.98 (related to Eligibility for Disbursement of Loan Repayment Assistance) are consolidated into the amended subsection (a) and the new subsection (b). Eligible practice specialties, previously listed in repealed §23.95, also are incorporated in paragraph (a)(3). Further edits are made to clarify certain eligibility criteria, but the adopted rule changes do not substantively change program requirements. The existing subsection (b) is eliminated and reconstituted within the new §23.102 (relating to Provisions Specific to Mental Health Professionals Who Established Eligibility for the Program Before September 1, 2023).

Rule 23.97 is amended to clarify how the Coordinating Board prioritizes disbursement in the event that available funds are insufficient to offer loan repayment assistance to all eligible applicants. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Existing subsections (b) and (c) are removed and reconstituted in §23.101 (relating to Limitations). The prioritization process in new subsection (b), which consolidates existing subsections (d), (e), and (f), is slightly amended in three substantive ways. First, subparagraph (b)(1)(C) is clarified to align with current practice that "MHPSA scores that reflect the highest degrees of shortage" means that the Coordinating Board ranks applications by MHPSA score in descending order, starting with applications with the highest score. Also, subparagraph (b)(1)(E) is amended to reflect that "rural area," which previously was not defined in rule, means a county with a population of less than 50,000 persons, which is the Coordinating Board's operational definition for the term in all loan repayment programs. Finally, paragraph (b)(2) is added based on the existing subsection (f) but further clarified that renewal applications from licensed marriage and family therapists are prioritized over initial applications. Existing subsection (g) is amended to clarify that the Coordinating Board only will use this provision in the event that insufficient funds are available to provide full loan repayment amounts to eligible renewal applicants .

Rule 23.100 is amended by adding some provisions that previously existed elsewhere in the subchapter and removing provisions that are relocated to other rules. Existing subsection (a) is redundant with provisions within §23.3 (relating to Methods of Disbursement) in the general provisions of this chapter and is removed. Existing subsection (b) and paragraph (e)(1) are removed and relocated to new §23.102 (relating to Provisions Specific to Mental Health Professionals Who Established Eligibility for the Program Before September 1, 2023). New subsection (a) has "on or after September 1, 2023" language removed to make it the clear default state and is rephrased to combine the provisions of existing subsection (c) and paragraph (e)(2). Existing subsection (d) is removed and reconstituted in §23.101 (relating to Limitations).

Rule 23.101 is created to consolidate various program limitations that previously were spread throughout the subchapter. Paragraphs (1) and (2) are the reconstituted §23.97(b) and (c); paragraph (3) is the reconstituted §23.100(d); and paragraph (4) codifies existing Coordinating Board practice that loan repayment assistance amounts may never exceed unpaid principal and interest owed on eligible education loans.

Rule 23.102 is created to consolidate provisions that specifically apply to providers who established eligibility for the program prior to September 1, 2023. Subsections (a) and (b) are the reconstituted §23.96(b), (c), and (d), with changes to reflect the elimination of the outdated "two-step" eligibility process in rule; and subsection (c) is the reconstituted and consolidated §23.100(b) and (e)(1).

Subsequent to the posting of the rules in the *Texas Register,* the following changes were incorporated into the adopted rule.

Subsection §23.97(c) - which, when the proposed rules were posted in the *Texas Register,* appeared as §23.100(d) - was instead amended to clarify that the Coordinating Board will only conduct an equitable reduction of loan repayment assistance amounts in the event that insufficient funds were available to provide full loan repayment amounts to eligible renewal applicants. This change was made to provide greater predictability to program applicants regarding Coordinating Board decisions regarding assistance amounts.

The following comments were received regarding the adoption of the amendments and new rules.

Comment: The Texas Hospital Association (THA) commented with four recommendations to the proposed rule, specifically: (1) change the definition of "rural county" in rule to align with that of the state's most recent General Appropriations Act (e.g. Article II, Rider 8); (2) apply the subsequent ranking criteria in §23.97(b)(1) within the class of renewal applications; (3) introduce a process to ensure that applicants receiving prioritization for practicing in a demographic Mental Health Professional Shortage Area (MHPSA) are actually providing care to that demographic group; and (4) commit to fully funding eligible applicants according to established ranking criteria in §23.97 rather than reducing funds for all providers.

Response: The Coordinating Board appreciates these recommendations.

For recommendation (1), there are numerous definitions of rurality in Texas statutes and administrative rules, including the one cited in THA's comment. The definition of "rural county" in the adopted rules was selected to align with similar definitions in the Nurse Loan Repayment Assistance Program and Physician Education Loan Repayment Assistance Program, allowing for greater operational efficiency and consistency. Accordingly, the Coordinating Board takes no action on this recommendation at this time.

For recommendation (3), the Coordinating Board shares THA's goal of ensuring applicants who qualify by practicing in a demographic MHPSA actually provide care to that demographic group; however, the application review and employer certification processes already accomplish this aim. §23.96(a)(4)(A) specifies that to be eligible, an applicant working in an MHPSA must provide direct patient care to Medicaid enrollees, Children's Health Insurance Program enrollees, and/or persons in secure correctional facilities operated by the Texas Department of Criminal Justice or Texas Juvenile Justice Department. To ensure applicants meet these criteria, the Coordinating Board requires the applicant's employer to certify that the applicant practices in an MHPSA and provides direct care to these populations. The Coordinating Board believes this process is sufficient to accomplish the stated goal, so it takes no action on this recommendation at this time.

For recommendations (2) and (4), the Coordinating Board agrees generally that greater transparency is required regarding the two distinct means by which the Coordinating Board can address insufficient program funds to provide loan repayment assistance to all eligible applicants. Accordingly, the adopted rule was amended to clarify that the Coordinating Board will only use equitable reduction provision in §23.97(c) (this provision also was relocated from §23.100 since the rules were posted in the *Texas Register*) in the event that insufficient funds were available to provide full loan repayment amounts to eligible renewal applicants. In all other cases, the Coordinating Board would use the prioritization criteria listed in §23.97(b).

The amendments and new sections are adopted under Texas Education Code, Section 61.608, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Loan Repayment Program for Mental Health Professionals.

The adopted amendments and new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.97. Applicant Ranking Priorities.

(a) Each fiscal year an application deadline will be posted on the program web page.

(b) If there are not sufficient funds to offer loan repayment assistance for all eligible providers, applications shall be prioritized as follows:

(1) Applications from eligible providers from practice specialties described in §23.96(a)(3)(A) - (G) of this subchapter (relating to Applicant Eligibility), ranked by the following criteria:

(A) renewal applications;

(B) applications from providers who sign SLRP contracts;

(C) applications from providers whose employers are located in an MPHSA, prioritizing higher MHPSA scores. If a provider works for an agency located in an MHPSA that has satellite clinics and the provider works in more than one of the clinics, the highest MHPSA score where the provider works shall apply. If a provider travels to make home visits, the provider's agency base location and its MHPSA score shall apply. If a provider works for different employers in multiple MHPSAs having different degrees of shortage, the location having the highest MHPSA score shall apply;

(D) applications from providers in state hospitals;

(E) applications from providers whose employers are located in counties with a population of less than 50,000 persons. In the case of providers serving at multiple sites, at least 75 percent of their work hours are spent serving in counties with a population of less than 50,000 persons; and

(F) applications received on the earliest dates; and

(2) Applications from eligible providers from the practice specialty described in §23.96(a)(3)(H) of this subchapter, ranked by the following criteria:

(A) renewal applications; and

(B) applications received on the earliest dates.

(c) If state funds are not sufficient to allow for maximum loan repayment assistance amounts stated in §23.100 of this subchapter (relating to Amount of Repayment Assistance) for all eligible applicants described by subparagraph (b)(1)(A) of this section, the Coordinating Board shall adjust in an equitable manner the state-funded distribution amounts for a fiscal year, in accordance with Texas Education Code, §61.607(d).

§23.100. Amount of Repayment Assistance.

(a) Repayment assistance for each service period will be determined by applying the following applicable percentage to the lesser of the maximum total amount of assistance allowed for the provider's practice specialty, as established by §23.101 of this subchapter (relating to Limitations), or the total student loan debt owed at the time the provider established eligibility for the program:

(1) for the first service period, 33.33 percent;

(2) for the second service period, 33.33 percent; and

(3) for the third service period, 33.34 percent.

(b) An eligible provider may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, for a minimum of twenty (20) hours per week.

(c) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Coordinating Board to constitute good cause, removal from the 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.

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SUBCHAPTER D. LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

19 TAC §§23.95, 23.98, 23.99, 23.101

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 23, Subchapter D, §§23.95, 23.98, 23.99, and 23.101, Loan Repayment Program for Mental Health Professionals, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5473). The rules will not be republished.

The adopted repeal consolidates provisions into other rules to better reflect Coordinating Board practices or eliminates rules that are duplicative with the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.608.

Rule 23.95 is repealed. The eligible practice specialties delineated in this section are incorporated into rule §23.96 (relating to Applicant Eligibility).

Rule 23.98 is repealed. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the relevant provisions of this rule are incorporated into rule §23.96 (related to Applicant Eligibility), and this section is repealed without effect.

Rule 23.99 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

Rule 23.101 is repealed. The rule directs the Coordinating Board to disseminate information about the program to interested parties, including institutions of higher education, appropriate state

agencies, and interested professional associations. Outreach to relevant stakeholders is crucial for the success of this and similar programs, but the Coordinating Board has determined that it can continue to accomplish this task without the rule, which is otherwise unnecessary for the administration of the program. Its elimination does not affect Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.608, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Loan Repayment Program for Mental Health Professionals.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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Nichole Bunker-Henderson
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SUBCHAPTER H. PEACE OFFICER LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.209 - 23.212, 23.215, 23.216

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments and new rules in Title 19, Part 1, Chapter 23, Subchapter H, §§23.209 - 23.212, 23.215, and 23.216, Peace Officer Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5474). The rules will not be republished.

The adopted amendments align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminates duplicative provisions; and clarifies potential ambiguities in existing rules. The new section consolidates program limitations into a single rule.

The Coordinating Board is authorized to establish rules as necessary to administer the Peace Officer Loan Repayment Program under Texas Education Code (TEC), Section 61.9959.

Rule 23.209 is amended to make nonsubstantive changes to the program's purpose statement. Because eligibility for the program is established after the first service period, the statement is rephrased to "maintain" - rather than "agree to continued" - employment, and the phrase "for a specified period" is removed because program eligibility is not tied to a specific number of consecutive periods of service.

Rule 23.210 is amended to eliminate two unnecessary definitions and make one clarifying edit to an existing definition. After the creation of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions for this chapter, the definition of "Board" in §23.210 is redundant, with all references to "Board" throughout the subchapter changed to "Coordinating Board." The term "full-time" is used only once in the substantive portions of the subchapter, and so the definition has been incorporated contextually when it appears. The definition for "eligible institution" is clarified to use the full term, "institution of higher education" in reference to both public and private institutions to more closely reflect the statutory definition referenced in rule. The substance of the definition is unchanged.

Rule 23.211 is amended to clarify program eligibility rules so they more clearly reflect Coordinating Board practice. To align with other subchapters in Chapter 23, participants in the program are referred to as "applicants" before establishing eligibility and by their profession thereafter - in this case, "peace officers." Employer verification, currently included as an element of the submitted application in subparagraph (2)(A), is moved to paragraph (3), reflecting that it is a distinct part of the eligibility process and not part of the application itself. The new subparagraph (2)(B) consolidates renewal applications - previously located in repealed §23.213(b) (relating to Eligibility for Disbursement of Loan Repayment Assistance) into the overall eligibility section. The required statements in existing subparagraphs (2)(E) and (F) reflect an outdated version of the application submitted to the Coordinating Board for this program and are eliminated to reflect current practice and better align to the statutory requirements for eligibility.

Rule 23.212 is amended to clarify how the Coordinating Board prioritizes disbursement in the event that available funds are insufficient to offer loan repayment assistance to all eligible applicants. Existing subsections (b) and (c) are consolidated and rewritten for clarity; the substance of these provisions is unchanged.

Rule 23.215 is amended to relocate provisions to the new §23.216 (relating to provisions) and make nonsubstantive edits.

Rule 23.216 is created to consolidate program limitations previously included in §23.215 (related to Amount of Repayment Assistance). Paragraph (2) is the reconstituted §23.215(b) but is modified slightly by codifying the Coordinating Board's current practice that loan repayment assistance amounts may never exceed unpaid principal and interest owed on eligible education loans.

No comments were received regarding the adoption of the amendments and new rule.

The amendments and new section are adopted under Texas Education Code, Section 61.9959, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Peace Officer Loan Repayment Assistance Program.

The adopted amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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SUBCHAPTER H. PEACE OFFICER LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.213, 23.214, 23.216

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 23, Subchapter H, §§23.213, 23.214, and 23.216, Peace Officer Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5476). The rules will not be republished.

The adopted repeal eliminates rules that have been determined to be unnecessary to the Coordinating Board's operations or duplicative of the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), §61.9959.

Rule 23.213 is repealed. The provisions contained within this section are consolidated into other rules to allow the structure of this subchapter to align with others in Chapter 23. Specifically, subsection (a) is moved to new rule §23.216 (relating to Limitations), and subsection (b) is moved to rule §23.211 (relating to Applicant Eligibility).

Rule 23.214 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and is eliminated without affecting Coordinating Board operations.

Rule 23.216 is repealed. The section's only provision is a requirement for the Coordinating Board to post a link to adopted rules for this program and other program materials on its website. This requirement is duplicative of TEC, §61.9959(b), and, although public outreach and education regarding the Coordinating Board's programmatic offerings are key to the success of this and similar programs, the rule itself is unnecessary to the administration of the program. Its elimination does not affect Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.9959, which provides the Coordinating Board with the authority to adopt rules necessary for the administration of the Peace Officer Loan Repayment Assistance Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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SUBCHAPTER J. MATH AND SCIENCE SCHOLARS LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.286 - 23.289, 23.293 - 23.295

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments and new rules in Title 19, Part 1, Chapter 23, Subchapter J, §§23.286 - 23.289 and 23.293 - 23.295, Math and Science Scholars Loan Repayment Assistance Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5477). The rules will not be republished.

The amendments and new section align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules; and the new section consolidates provisions specific to persons who established eligibility for the program prior to September 1, 2023.

The Coordinating Board is authorized to establish rules as necessary to administer the Math & Science Scholars Loan Repayment Program under Texas Education Code (TEC), Section 61.9840.

The subchapter is retitled to conform with the titles of the other subchapters in Chapter 23. Conforming changes to the program title are made throughout the subchapter.

Rule 23.286 is amended to align the subchapter's authority statement with that of other subchapters in Chapter 23. The purpose statement is revised to avoid any potential confusion related to the required length of service, which is included in the rules related to eligibility.

Rule 23.287 is amended to eliminate two unnecessary definitions and codify the Coordinating Board's existing operational definition for "public school" for this program. The terms "Commissioner" and "Coordinating Board" are defined in §23.1 (related to Definitions) in the general provisions of this chapter and are therefore duplicative in this rule. The term "employment service period" is changed to "service period" to align with usage in this subchapter and with other subchapters in Chapter 23. The definition for "public school" in paragraph (2) already is the operational definition for the term and is included to further clarify that otherwise eligible teachers employed at either traditional public or public charter schools may participate in the program.

Rule 23.288 is amended to simplify program eligibility rules so they more clearly reflect Coordinating Board practice. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Historically, eligibility for this program has been a two-step process, with applicants establishing

initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the former subsection (b) and repealed §23.291 are combined into the new eligibility criteria, with conforming changes made throughout the rule to make the consolidation fit logically. The existing subsection (a) is relocated to the new §23.295 (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023). New paragraph (3) now includes clarifying language that the Coordinating Board will specify the eligible majors biennially that constitute "an undergraduate or graduate program in mathematics or science" to alleviate confusion for potential applicants. Overall, eligibility criteria for the program remain unchanged.

Rule 23.289 is amended to clarify the means by which the Coordinating Board will rank applications in the event that funds available are insufficient to offer loan repayment to all eligible applicants. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Subsections (a) and (b) are combined, along with a number of nonsubstantive edits for clarity. The prioritization process remains unchanged.

Rule 23.293 is amended to eliminate or relocate provisions to better align with other subchapters in Chapter 23. The rule is retitled to reflect its remaining provision: setting the annual amount of repayment assistance offered to eligible applicants. Subsection (a) is duplicative with §23.3 (relating to Method of Disbursement) and is eliminated. Subsection (c) is relocated to §23.295 (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023). Subsection (d) is relocated to §23.294 (relating to Limitations).

Rule 23.294 is amended to consolidate various program limitations that were previously dispersed throughout the subchapter in a single rule. Paragraph (a)(3) is the reconstituted §23.293(d). Paragraph (a)(4) codifies the existing Coordinating Board practice of not offering an amount of loan repayment assistance that exceeds the unpaid principal and interest on an eligible education loan. Subsection (b) is the reconstituted §23.290(b).

Rule 23.295 is created to consolidate provisions affecting persons who established eligibility for the program prior to September 1, 2023. Subsection (a) is the reconstituted and combined §23.288(a) and §23.291(a), and subsection (b) is the reconstituted §23.290(a).

No comments were received regarding the adoption of the new rule and amendments.

The amendments and new section are adopted under Texas Education Code, Section 61.9840, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Math & Science Scholars Loan Repayment Program.

The adopted amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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Nichole Bunker-Henderson
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19 TAC §§23.290 - 23.292

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 23, Subchapter J, §§23.290 - 23.292, Math and Science Scholars Loan Repayment Program, without changes to the proposed text as published in the July 26, 2024, issue of the *Texas Register* (49 TexReg 5481). The rules will not be republished.

The adopted repeal consolidates provisions into other rules to better reflect Coordinating Board practices or eliminates rules that are duplicative with the General Provisions in Chapter 23, Subchapter A, adopted by the Board in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.9840.

Rule 23.290 is repealed. To better align the structure of the subchapter to others in Chapter 23, the provisions within this section are relocated elsewhere in the subchapter. Subsection (a) is relocated to new rule §23.295(b) (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023) and subsection (b) is relocated to rule §23.294(b) (relating to Limitations).

Rule 23.291 is repealed. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, subsection (a) is incorporated into eligibility criteria established in new rule §23.295(a) (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023) and subsection (b) is similarly incorporated into rule §23.288 (relating to Applicant Eligibility).

Rule 23.292 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affected Coordinating Board operations.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 61.9840, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Math & Science Scholars Loan Repayment Program.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

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

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TITLE 22. EXAMINING BOARDS

PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 343. CONTESTED CASE PROCEDURE

The Texas Board of Physical Therapy Examiners adopts the amendments to 22 TAC §343.1, Definitions; §343.23, Hearings; §343.24, Payment of Costs for a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License; §343.26, Commutation of Time; §343.27, Probation; §343.28, Records Retention Schedule; §343.29, Failure To Appear at Informal Settlement Conference or Hearing; §343.35, Complaint Investigation and Disposition; §343.48, Dismissal of Complaint; §343.50, Application for Reinstatement of License; §343.51, Evaluation for Reinstatement; §343.52, Procedure upon Request for Reinstatement; §343.53, Board Action Possible upon Reinstatement of Revoked License; §343.55, Failure To Appear, and §343.56, Monitoring of Licensees, and adopts the repeal of §343.25, Continuance. The amendments and repeal are adopted without changes to the proposed text as published in the September 6, 2024, issue of the *Texas Register* (49 TexReg 6961) and will not be republished.

The amendments are adopted in order to provide clarity to the procedures for contested cases, to correct inaccurate and outdated references, and to conform the rules in Chapter 343 with the physical therapy provisions in Chapter 453, Occupations Code, with the administrative procedures in Chapter 2001, Government Code, and with Title 1 Texas Administrative Code. The repeal is adopted as the procedure is covered under the State Office of Administrative Hearings (SOAH) rules for hearings.

The repeal is adopted as the procedure is covered under the State Office of Administrative Hearings (SOAH) rules for hearings.

There was no public comment.

22 TAC §§343.1, 343.23, 343.24, 343.26 - 343.29, 343.35, 343.48, 343.50 - 343.53, 343.55, 343.56

The amendments are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this 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.

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TRD-202405053
Ralph Harper
Executive Director
Texas Board of Physical Therapy Examiners
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Proposal publication date: September 6, 2024
For further information, please call: (512) 305-6900

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22 TAC §343.25

The repeal is adopted under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

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

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Ralph Harper
Executive Director
Texas Board of Physical Therapy Examiners
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Proposal publication date: September 6, 2024
For further information, please call: (512) 305-6900

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PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER D. SPECIALTY CERTIFICATIONS

22 TAC §463.25

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts the repeal of §463.25, relating to Health Service Psychologist Specialty Certification. Section 463.25 is repealed without changes as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5630) and will not be republished.

Reasoned Justification.

The adopted repeal is appropriate as the addition of a Health Service Psychologist Specialty Certification onto a psychologist's license no longer provides a meaningful public benefit necessitating regulation by the Council.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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TRD-202405004
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
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For further information, please call: (512) 305-7706

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PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §781.302

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners adopts amendment to §781.302, relating to The Practice of Social Work. Section 781.302 is adopted with changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5631) and will be republished.

Reasoned Justification.

The adopted amendments clarify under what employment setting and supervision an LBSW and LMSW may practice. The amendments also remove restrictions on the locations an LBSW or LMSW may practice from, while preserving restrictions on LBSWs and LMSWs authorization to practice independently.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

Three commenters disagreed with adoption of the amended rule, noting the rule was confusing for license holders and that former section "(i)" as amended would be written in an incorrect or ungrammatical syntax. One commenter also objected to removing language related to prohibiting an LMSW from renting office space and opening up their own independent practice setting. The commenter suggested adding additional language to specify an LMSW must ensure who has oversight of the LMSW and responsibility for clients.

List of interested groups or associations for the rule.

National Association of Social Workers - Texas Chapter.

Summary of comments for the rule.

One commenter offered support for the proposed amendment, stating the changes clean up rule language to allow an LMSW to work remotely, such as at home, while still employed by and overseen by an agency and supervisor. The commenter also noted the improper syntax of the former section "(i)" as needing addressing.

Agency Response.

The Executive Council thanks the commenter for their supportive comments. Regarding the syntax error in the proposed rule, this was a typographical error made in the posting of the rule amendment to the *Texas Register*. The Council voted the adopt the rule with changes to reflect the original language proposed by the social work board to read as follows: "An LBSW or LMSW who is not recognized for independent practice may bill directly to patients or bill directly to third party payers if the LBSW or LMSW is under a formal supervision plan." The Council declines to return language describing the work setting for LMSWs, as board rules currently specify numerous times that an LMSW is not allowed to open an independent practice, regardless of the physical setting.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.302. The Practice of Social Work.

(a) Practice of Baccalaureate Social Work--Applying social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is generalist practice and may include interviewing, assessment, planning, intervention, evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, problem solving, supervision, consultation, education, advocacy, community organization, and policy and program development, implementation, and administration. An LBSW may only practice social work in an agency employment setting or under contract with an agency, unless under a non-clinical supervision plan per §781.402(d)(1) of this title.

(b) Practice of Independent Non-Clinical Baccalaureate Social Work--An LBSW recognized for independent practice, known as LBSW-IPR, may provide any non-clinical baccalaureate social work services in either an employment or an independent practice setting. An LBSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LBSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

(c) Practice of Master's Social Work--Applying social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's Social Work practice may include applying specialized knowledge and advanced practice skills in assessment, treatment, planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision, consultation, education, research, advocacy, community organization and developing, implementing and administering policies, programs and activities. An LMSW may engage in Baccalaureate Social Work practice. An LMSW may only practice social work in an agency employment setting or under contract with an agency, unless under a non-clinical supervision plan per §781.402(d)(1) of this title. An LMSW may practice clinical social work, as defined by subsection (f) of this section, in an agency employment setting or under contract with an agency if under clinical supervision per §781.404(a)(2) of this title or under a clinical supervision plan per §781.404(a)(3) of this title.

(d) Advanced Non-Clinical Practice of LMSWs--An LMSW recognized as an Advanced Practitioner (LMSW-AP) may provide any non-clinical social work services in either an employment or an independent practice setting. An LMSW-AP may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-AP must restrict his or her practice to providing non-clinical social work services.

(e) Independent Practice for LMSWs--An LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. This licensee is designated as LMSW-IPR. An LMSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

(f) Practice of Clinical Social Work--The practice of social work that requires applying social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of clinical social work requires applying specialized clinical knowledge and advanced clinical skills in assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents, and children. The clinical social worker may engage in Baccalaureate Social Work practice and Master's Social Work practice. Clinical treatment methods may include but are not limited to providing individual, marital, couple, family, and group therapy, mediation, counseling, supportive counseling, direct practice, and psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) Codes, and other diagnostic classification systems in assessment, diagnosis, treatment and other practice activities. An LCSW may provide any clinical or non-clinical social work service or supervision in either an employment or independent practice setting. An LCSW may work under contract, bill directly for services, and bill third parties for service reimbursements.

(g) A licensee who is not recognized for independent practice and who is not under a non-clinical supervision plan must not engage in any independent practice that falls within the definition of social work practice in §781.102 of this title (relating to Definitions) unless the person is licensed in another profession and acting solely within the

scope of that license. If the person is practicing professionally under another license, the person may not use the titles "licensed master social worker," "licensed social worker," or "licensed baccalaureate social worker," or any other title or initials that imply social work licensure.

(h) An LBSW or LMSW who is not recognized for independent practice may bill directly to patients or bill directly to third party payers if the LBSW or LMSW is under a formal supervision plan.

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 October 25, 2024.

TRD-202405000
Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
Effective date: November 14, 2024
Proposal publication date: August 2, 2024
For further information, please call: (512) 305-7706

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PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.114

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.114, relating to Academic Course Content. Section 801.114 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5633) and will not be republished.

Reasoned Justification.

The adopted amendments have been made so the rule will better align with Section 502.252 of the Occupations Code.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 October 25, 2024.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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Proposal publication date: August 2, 2024
For further information, please call: (512) 305-7706

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22 TAC §801.115

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts the repeal of §801.115, relating to Academic Re-

quirements and Supervised Clinical Internship. The repeal of §801.115 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5635) and will not be republished.

Reasoned Justification.

The adopted repeal has been made so the licensing rules better align with Chapter 502 of the Occupations Code.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule repeal is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule repeal to the Executive Council. The rule repeal is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule repeal.

Lastly, the Executive Council also adopts this rule repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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22 TAC §801.142

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.142, relating to Supervised Clinical Experience Requirements and Conditions. Section 801.142 is adopted with changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5636) and will be republished.

Reasoned Justification.

The adopted amendments change the amount of supervision hours that may be counted towards licensure that are provided by telephone. Additionally, amendments have been made so the rule will better align with Section 502.252 of the Occupations Code.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

One commenter supported the rule amendment, noting that having the option of telephonic supervision would be helpful in some circumstances.

Agency Response.

The Council thanks the commenter for their support.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules nec-

essary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§801.142. Supervised Clinical Experience Requirements and Conditions.

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of 3,000 hours of supervised clinical practice. The required 3,000 hours must include at least 1,500 hours providing direct clinical services, of which:

(A) no more than 750 hours may be provided via technology-assisted services (as approved by the supervisor); and

(B) at least 500 hours must be providing direct clinical services to couples or families.

(2) The remaining required hours, not covered by paragraph (1) above, may come from related experiences, including workshops, public relations, wrting case notes, consulting with referral sources, etc.

(3) An LMFT Associate must obtain a minimum of 200 hours of supervision by an LMFT-S during the required 3,000 hours, and at least 100 of these hours must be individual supervision.

(A) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.

(B) Supervision may be provided in person or by live video or, if the supervisor determines that in-person or live video supervision is not accessible, by telephone.

(C) An LMFT Associate may apply up to 100 graduate internship supervision hours toward the required 200 hours of supervision required for licensure as an LMFT.

(4) For an LMFT applicant who begins the graduate degree program used for their license application before September 1, 2025, staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.

(A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(5) An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.

(6) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules.

(7) Within 30 days of the initiation of supervision, an LMFT Associate must submit to the council a Supervisory Agreement Form for each council approved supervisor.

(8) An LMFT Associate may have no more than two council-approved supervisors at a time, unless given prior approval by the council or its designee.

(9) Applicants with a master's degree that qualifies under §§801.112 and 801.113 may count any supervision and experience (e.g., practicum, internship, externship) completed after conferral of the master's degree and as part of a doctoral program, toward the supervision and experience requirements set out in §801.142. A doctoral program must lead to a degree that qualifies under §§801.112 and 801.113 before the Council will award credit for supervision and experience under this provision.

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

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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22 TAC §801.143

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.143, relating to Supervisor Requirements. Section 801.143 is adopted with changes to the

proposed text as published in the May 17, 2024, issue of the *Texas Register* (49 TexReg 3479) and will be republished.

Reasoned Justification.

The adopted amendments are intended to set equitable requirements for achieving supervisor status; to standardize provisions concerning automatic revocation of supervisor status after a disciplinary order imposes a probated suspension, suspension, or revocation of a license; and makes typographical updates.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§801.143. Supervisor Requirements.

(a) To apply for supervisor status, an LMFT must be in good standing and submit:

(1) an application and applicable fee;

(2) documentation of the completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and

(3) documentation of one of following:

(A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution;

(B) a 40-hour continuing education course in clinical supervision; or

(C) successful completion of an American Association for Marriage and Family Therapy (AAMFT) approved Fundamentals of Supervision course.

(b) A supervisor may not be employed by the person he or she is supervising.

(c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.

(d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:

(1) a photocopy of the submitted Supervisory Agreement Form;

(2) proof of council approval of the Supervisory Agreement Form;

(3) a record of all locations at which the LMFT Associate will practice;

(4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference;

(5) an established plan for the custody and control of the records of supervision for each LMFT Associate in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice; and

(6) a copy of any written plan for remediation of the LMFT Associate.

(e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.

(f) Both the LMFT Associate and the council-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.

(1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.

(2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.

(3) A supervisor may only supervise the number of individuals for which the supervisor can provide adequate supervision.

(4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate.

(5) A supervisor must timely submit accurate documentation of supervised experience.

(g) Supervisor status expires with the LMFT license.

(h) A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent themselves as a supervisor in any manner.

(i) A supervisor whose license status is other than "active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date their license status changed from "active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.

(j) Upon execution of a Council order for probated suspension, suspension, or revocation of the LMFT license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked must:

(1) inform each LMFT Associate of the council disciplinary order;

(2) refund all supervisory fees received after date the council disciplinary order was ratified to the LMFT Associate who paid the fees; and

(3) assist each LMFT Associate in finding alternate supervision.

(k) Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.

(l) The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(m) At a minimum, the 40-hour continuing education course in clinical supervision, referenced in subsection (a)(3)(B) of this section, must meet each of the following requirements:

(1) the course must be taught by a graduate-level licensee holding supervisor status issued by the Council:

(2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and

(3) the 40-hour supervision training must include at least:

(A) three (3) hours for defining and conceptualizing supervision and models of supervision;

(B) three (3) hours for supervisory relationship and marriage and family therapist development;

(C) twelve (12) hours for supervision methods and techniques, covering roles, focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (race, ethnic, and gender issues), and evaluation methods;

(D) twelve (12) hours for supervision and standards of practice, codes of ethics, and legal and professional issues; and

(E) three (3) hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

(n) Subsection (m) of this section is effective May 1, 2023.

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 October 25, 2024.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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Proposal publication date: May 17, 2024
For further information, please call: (512) 305-7706

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22 TAC §801.201

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts new rule §801.201, relating to Temporary License. Section 801.201 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5638) and will not be republished.

Reasoned Justification.

The adopted new rule creates a temporary Texas license for marriage and family therapists who are licensed to practice independently in another jurisdiction. Temporary license holders are allowed to use this license for up to thirty (30) days within one year from the date of issuance, and the thirty days are not required to be consecutive. Temporary license holders are required to report the use of this license after utilizing the full thirty days or the expiration of one year from licensure, whichever occurs first.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER A. LICENSE APPLICATIONS

22 TAC §882.14

The Texas Behavioral Health Executive Council adopts new rule §882.14, relating to Petition for Waiver or Remediation of Deficiency. Section 882.14 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5640) and will not be republished.

Reasoned Justification.

The adopted new rule authorizes the Council through its member boards to accept remediation of any licensing requirement that is not required by statute or federal law.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

Two commenters expressed support for the rule as a reasonable and logical change to support those seeking licensure.

Agency Response.

The Council thanks commenters for their supportive comments.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
Effective date: November 14, 2024
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For further information, please call: (512) 305-7706

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SUBCHAPTER B. LICENSE

22 TAC §882.21

The Texas Behavioral Health Executive Council adopts amendments to §882.21, relating to License Statuses. Section 882.21 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5641) and will not be republished.

Reasoned Justification.

The adopted amendments update the definition of inactive and delinquent licenses to ensure a license with a pending disciplinary complaint or investigation does not expire until after

the complaint has been resolved. The amendments also clarify which licenses' statuses allow practice and the process for requesting retirement of a license.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

One commenter expressed support for the proposed amendment. The commentor also raised a question about a separate portion of the amended rule unrelated to the proposed amendment.

Agency Response.

The Council thanks the commenter for their support.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks
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Texas Behavioral Health Executive Council
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CHAPTER 884. COMPLAINTS AND ENFORCEMENT
SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

22 TAC §884.10

The Texas Behavioral Health Executive Council adopts amendments to §884.10, relating to Investigation of Complaints. Section 884.10 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5643) and will not be republished.

Reasoned Justification.

This amendment would allow Council staff to close without investigation a complaint that lacks sufficient evidence to identify a violation or where the complainant is uncooperative.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

Three commenters offered support for the amendment, with one noting the change was efficient and that closing complaints that do not have sufficient evidence to go forward makes sense. One commenter suggested also adding a new category of "medium priority" when prioritizing complaint investigations that do not rise to the level of a high priority such as physical danger, but that could nevertheless result in potential mental or emotional abuse.

Agency Response.

The Council thanks commenters for their supportive comments. At this time the agency declines to add an additional prioritization category, but will keep the suggestion under advisement.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
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For further information, please call: (512) 305-7706

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SUBCHAPTER H. CONTESTED CASES

22 TAC §884.60

The Texas Behavioral Health Executive Council adopts the repeal of §884.60, relating to Witness Fees. Section 884.60 is repealed without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5644) and will not be republished.

Reasoned Justification.

The adopted repeal of this rule is necessary because it is replaced with a new rule. The new rule will clarify agency procedures for the issuance of subpoenas and commissions for depositions during a contested case at SOAH.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
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Proposal publication date: August 2, 2024
For further information, please call: (512) 305-7706

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22 TAC §884.60

The Texas Behavioral Health Executive Council adopts new rule §884.60, relating to Depositions, Subpoenas, and Witness Expenses. Section 884.60 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5644) and will not be republished.

Reasoned Justification.

The adopted new rule clarifies agency procedures for the issuance of subpoenas and commissions for depositions during a contested case at SOAH.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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

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CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council adopts amendments to §885.1, relating to Executive Council Fees. Section 885.1 is adopted with changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5647) and will be republished.

Reasoned Justification.

The adopted amendments clarify that only individuals eligible to reinstate an expired license may apply for reinstatement. In addition, the amendments clarify the requirements for receiving waiver of licensing and examination fees for military service-related applicants. The amendments remove fees for an LMFT Associate license renewal or extension, which are no longer authorized under agency rules, and for a mailing list the agency no longer provides. Another rule proposal would create a temporary MFT licenses, so a $103 fee is established. The adopted amendments clarify fee components for application to upgrade an LMFT Associate license and for examinations.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§885.1 Executive Council Fees.

(a) General provisions.

(1) All fees are nonrefundable, nontransferable, and cannot be waived except as otherwise permitted by law. Any attempt to cancel, initiate a chargeback, or seek recovery of fees paid to the Council may result in the opening of a complaint against a licensee or applicant.

(2) Fees required to be submitted online to the Council must be paid by debit or credit card. All other fees paid to the Council must be in the form of a personal check, cashier's check, or money order.

(3) For applications and renewals the Council is required to collect fees to fund the Office of Patient Protection (OPP) in accordance with Texas Occupations Code §101.307, relating to the Health Professions Council.

(4) For applications, examinations, and renewals the Council is required to collect subscription or convenience fees to recover costs associated with processing through Texas.gov.

(5) All examination fees are to be paid to the Council's designee.

(b) The Executive Council adopts the following chart of fees:

(1) Fees effective through August 31, 2023.
Figure: 22 TAC §885.1(b)(1) (No change.)

(2) Fees effective on September 1, 2023.
Figure: 22 TAC §885.1(b)(2)

(c) Late fees. (Not applicable to Inactive Status)

(1) If the person's license has been expired (i.e., delinquent) for 90 days or less, the person may renew the license by paying to the Council a fee in an amount equal to one and one-half times the base renewal fee.

(2) If the person's license has been expired (i.e., delinquent) for more than 90 days but less than one year, the person may renew the license by paying to the Council a fee in an amount equal to two times the base renewal fee.

(3) If the person's license has been expired (i.e., delinquent) for one year or more, the person may not renew the license; however, if eligible the person may apply for reinstatement of the license.

(d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).

(e) Military Exemption for Fees. All licensing and examination base rate fees payable to the Council are waived for applicants who are:

(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all licensure requirements; or

(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

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

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 281. APPLICATIONS PROCESSING

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§281.1, 281.5, and 281.22; and the repeal of §§281.30, 281.31, and 281.32.

Amended §§281.1, 281.5, and 281.22 and the repeal of §§281.30, 281.31, and 281.32 are adopted *without changes* to the proposed text as published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3704) and therefore will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

Electronic Application Submittal

The rulemaking implements Senate Bill (SB) 1397, 88th Legislature, 2023, by requiring a person who submits an application under §281.5(a) to submit an accurate duplicate of the application in electronic format. SB 1397 enacted Texas Water Code §5.1734, which requires the commission to post an electronic copy of a permit application at the time the application is declared administratively complete. Application forms will provide detailed information regarding submitting a copy of the application in electronic format such as formatting, frequency, and timing of the submittal.

Obsolete Rule Repeal

The rulemaking also deletes one subsection, §281.22(c), and repeals three sections that the commission identified as obsolete during the quadrennial rule review of Chapter 281 (44 TexReg 7717): §281.30 (Applicability of Prioritization Procedures for Commercial Hazardous Waste Management Facility Permit Applications); §281.31 (Definitions); and §281.32 (Prioritization Process). These sections implemented Texas Health and Safety Code (THSC), §361.0232 and §361.0871(c) enacted by SB 1099, 72nd Legislature, 1991, and subsequently repealed by House Bill (HB) 7, 78th Legislature, 2003, Third Called Session.

As part of this rulemaking, the commission is also adopting revisions to 30 Texas Administrative Code (TAC) Chapter 328, Waste Minimization and Recycling; Chapter 330, Municipal Solid Waste; and Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste, concurrently in this issue of the *Texas Register*.

Section by Section Discussion

§281.1, Purpose

The commission amends §281.1 to replace the name of the commission's predecessor agency, Texas Natural Resource Conservation Commission, with the commission's current name, Texas Commission on Environmental Quality, and to remove obsolete rule references regarding the prioritization procedure for commercial hazardous waste management facility permit applications under §§281.30 - 281.32 by deleting §§281.30 - 281.32.

§281.5, Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Radioactive Material, Hazardous Waste, and Industrial Solid Waste Management Permits

The commission adopts new §281.5(b) to require a person who submits an application under §281.5(a) to submit an accurate duplicate of the application in electronic format to implement SB 1397. The commission also adopts amended §281.5(a)(4) to conform with drafting standards by removing the term "agency" and replacing it with the term "commission."

§281.22, Referral to Commission

The commission deletes §281.22(c). The statutory basis for this subsection was repealed.

§281.30, Applicability of Prioritization Procedures for Commercial Hazardous Waste Management Facility Permit Applications

The commission repeals §281.30. The statutory basis for this section was repealed.

§281.31, Definitions

The commission repeals §281.31. The statutory basis for this section was repealed.

§281.32, Prioritization Process

The commission repeals §281.32. The statutory basis for this section was repealed.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a "Major environmental rule" which is defined in Texas Government Code, §2001.0225(g)(3) as a rule with a specific intent "to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state."

First, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking adoption is to require a person who submits an application under §281.5(a) to submit an accurate duplicate of the application in electronic format and to amend and repeal obsolete TCEQ rules in Chapter 281 relating to the referral of applications to the commission and the implementation of the prioritization procedure for commercial hazardous waste management facility permit applications.

Second, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because the adopted rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the adopted rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the rulemaking adoption will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Finally, the rulemaking adoption does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking adoption does not meet any of the four preceding applicability requirements.

This rulemaking adoption does not meet the statutory definition of a "Major environmental rule," nor does it meet any of the four applicability requirements for a "Major environmental rule." Therefore, this rulemaking is not subject to Texas Government Code, §2001.0225.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No public comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission has prepared a takings impact assessment for these adopted rules in accordance with Texas Government Code, §2007.043. The commission's preliminary assessment is that implementation of these adopted rules will not constitute a taking of real property. The commission adopts this rulemaking for the purpose of implementing SB 1397 and for the purpose of amending and repealing obsolete TCEQ rules in Chapter 281 that the commission identified during the quadrennial rule review.

The commission's analysis indicates that Texas Government Code, Chapter 2007, does not apply to these adopted rules based upon exceptions to applicability in Texas Government Code, §2007.003(b)(4) and (5). First, the rulemaking adoption will implement SB 1397 by creating new §281.5(b) to require a person who submits an application under §281.5(a) to submit an accurate duplicate of the application in electronic format. This action is reasonably taken to fulfill an obligation mandated by state law; therefore, Texas Government Code, Chapter 2007, does not apply to this adopted rule based upon the exception to applicability in Texas Government Code, §2007.003(b)(4). Second, the rulemaking adoption will delete one subsection, §281.22(c), and repeal three sections that the commission identified as obsolete during the quadrennial rule review of Chapter 281 (44 TexReg 7717): §281.30 (Applicability of Prioritization Procedures for Commercial Hazardous Waste Management Facility Permit Applications); §281.31 (Definitions); and §281.32 (Prioritization Process). These sections implemented THSC §361.0232 and §361.0871(c) enacted by SB 1099, 72nd Legislature, 1991, and subsequently repealed by HB 778th Legislature, 2003, Third Called Session. The adopted repeal of §281.22(c) and §281.30 through §281.32 reflect TCEQ having discontinued the prioritization procedure for commercial hazardous waste management facility permit applications which provides a unilateral expectation that does not rise to the level of a recognized interest in private real property. Therefore, Texas Government Code, Chapter 2007 does not apply to these adopted rule changes because the rulemaking adoption falls within the exception under Texas Government Code, §2007.003(b)(5).

Further, the commission determined that promulgation of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rulemaking because the adopted rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. Therefore, the adopted rules will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the rulemaking adoption and found the adoption is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the amendments are consistent with CMP goals and policies because the rulemaking will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No public comments were received regarding the CMP.

Public Comment

The commission offered a public hearing on June 20, 2024. The comment period closed on June 25, 2024. No public comments were received.

SUBCHAPTER A. APPLICATIONS PROCESSING

30 TAC §§281.1, 281.5, 281.22

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC;

TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.128, which authorizes the commission to utilize electronic means of transmission of information, including notices, orders, and decisions issued or sent by the commission; TWC, §5.1734, which requires the commission to post permit applications and associated materials on its website; TWC, §27.012, which requires the commission to prescribe forms for permit applications to authorize injection wells under its jurisdiction; TWC, §27.019, which requires the commission to adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under TWC, Chapter 27; the Administrative Procedures Act under Texas Government Code, Chapter 2001, which authorizes the commission as a state agency to adopt rules pursuant to the rulemaking process; Texas Government Code, §2001.039 and 1 Texas Administrative Code, Chapter 91, Subchapter D, which authorize the commission as a state agency to review and consider for readoption each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date; Texas Health and Safety Code (THSC), §361.011, which establishes the commission's jurisdiction over the regulation, management, and control of municipal solid waste; THSC, §361.015, which authorizes the commission to license and regulate radioactive waste-storage, processing and disposal activities; THSC, §361.017, which establishes the commission's jurisdiction over the regulation, management, and regulation and control of industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act in accordance with the Administrative Procedures Act; THSC, §361.061, which authorizes the commission to issue permits authorizing facilities for the storage, processing and disposal of industrial solid waste; THSC, §361.064, which requires the commission to prescribe the form of, requirements and procedures for a permit application for a solid waste facility; and THSC, §401, which grants the commission authority over licenses for the disposal of radioactive substances.

The adopted amendment to §281.5 will implement Senate Bill (SB) 1397, 88th Legislature, 2023, which enacted TWC, §5.1734. The adopted amendments will also delete one subsection, §281.22(c), that the commission identified as obsolete during the quadrennial rule review of Chapter 281 (44 TexReg 7717). These sections implemented THSC, §361.0232 and §361.0871(c), SB 1099, 72nd legislature, 1991, and subsequently repealed by House Bill 7, 78th Legislature, 2003, Third Called Session.

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

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30 TAC §§281.30 - 281.32

Statutory Authority

The repeals are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; the Administrative Procedures Act under Texas Government Code, Chapter 2001, which authorizes the commission as a state agency to adopt rules pursuant to the rulemaking process; Texas Government Code, §2001.039 and 1 Texas Administrative Code, Chapter 91, Subchapter D, which authorize the commission as a state agency to review and consider for readoption each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date; Texas Health and Safety Code (THSC), §361.011, which establishes the commission's jurisdiction over the regulation, management, and control of municipal solid waste; THSC, §361.017, which establishes the commission's jurisdiction over the regulation, management, and regulation and control of industrial; solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act in accordance with the Administrative Procedures Act; THSC, §361.061, which authorizes the commission to issue permits authorizing facilities for the storage, processing and disposal of industrial solid waste; and THSC, §361.064, which requires the commission to prescribe the form of, requirements and procedures for a permit application for a solid waste facility.

The adopted repeals will repeal three sections, §§281.30 - 281.32, that the commission identified as obsolete during the quadrennial rule review of Chapter 281 (44 TexReg 7717). These sections implemented THSC, §361.0232 and §361.0871(c) which were enacted by SB 1099, 72nd Texas legislature, 1991, and subsequently repealed by House Bill 7, 78th Texas Legislature, 2003, Third Called Session.

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

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CHAPTER 328. WASTE MINIMIZATION AND RECYCLING

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §328.7; and new §§328.301 - 328.304.

Amended §328.7 and new §§328.301 - 328.304 are adopted *without changes* to the proposed text as published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3708) and therefore will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The commission adopts this rulemaking to implement House Bill (HB) 3060, 88th Texas Legislature, 2023. HB 3060 amended Texas Health and Safety Code (THSC), §361.0151 (Recycling), §361.421 (Definitions), and §361.427 (Specifications for Recycled Products); and added §361.4215 (Mass Balance Attribution). These statutory enactments require the commission to promulgate rules to: 1) identify third-party certification systems for mass balance attribution that may be used for the purposes of the definitions of "recycled material" and "recycled plastics" in THSC, §361.421(6) and §361.421(6-a), respectively; and 2) establish guidelines by which a product is eligible to be considered a recycled product in accordance with THSC, §361.4215 and §361.427.

As part of this rulemaking, the commission is adopting revisions to 30 Texas Administrative Code (TAC) Chapter 281, Applications Processing; Chapter 330, Municipal Solid Waste; and Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste, concurrently in this issue of the *Texas Register.*

Section by Section Discussion

Subchapter B: Recycling, Reuse, and Materials Recovery Goals and Rates

§328.7, Definitions of Terms and Abbreviations

The commission amends §328.7(4) by replacing existing subparagraphs (A) - (H) with clauses (i) - (viii) in subparagraph (A) and adding clauses (ix) - (xii) to update the definition of "Recycled product" to reference current Environmental Protection Agency Comprehensive Procurement Guidelines and Recovered Materials Advisory Notices. The definition is also revised by reorganizing text in former subparagraph (H) under new subparagraph (B), by updating references to the Federal Trade Commission and the American Society for Testing Materials guidelines, and adding new subparagraph (C) to exclude a product sold as fuel from the definition. The amendments implement HB 3060 which amended the definition of "Recycled product" in THSC, §361.421 by replacing the phrase "which meets the requirements for recycled material content as prescribed by" with the phrase "that is eligible to be considered a recycled product under," and by clarifying that the term does not include a product sold as fuel.

Subchapter L: Third-party Certification Systems for Mass Balance Attribution

§328.301, Purpose and Applicability

The commission adopts new §328.301 to establish the purpose and applicability of the subchapter.

§328.302, Definitions

The commission adopts new §328.302 to implement HB 3060 by adopting definitions of the terms "Recycled material," "Recycled plastics," and "Recycling" to implement the definitions in THSC, §361.421; and adopting definitions of the terms "Mass balance attribution," and "Third-party certification system" to implement §361.4215.

§328.303, Third-Party Certification Systems for Mass Balance Attribution

The commission adopts new §328.303 to implement THSC, §361.4215, as promulgated by HB 3060, which requires the commission to adopt rules to identify third-party mass balance attribution certification systems.

§328.304, Recycled Products

The commission adopts new §328.304 to implement THSC, §361.427, as amended by HB 3060. HB 3060 amended THSC, §361.427 by clarifying that the guidelines the commission establishes in rule for determining whether a product is eligible to be considered to be a recycled product must be based on the percent of the total content of a product that consists of recycled material or the portion determined to consist of recycled material according to a third-party certification system for mass balance attribution, and by clarifying that post-use polymers be included among recycled material in these guidelines.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a "Major environmental rule" which is defined in Texas Government Code, §2001.0225(g)(3) as a rule with a specific intent "to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state."

First, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking adoption is to promulgate rules to: 1) identify third-party certification systems for mass balance attribution that may be used for the purposes of the definitions of "recycled material" and "recycled plastics" in THSC, §361.421(6) and §361.421(6-a), respectively; and 2) establish guidelines by which a product is eligible to be considered a recycled product in accordance with THSC, §361.4215 and §361.427.

Second, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because the adopted rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the

adopted rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the rulemaking adoption will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Finally, the rulemaking adoption does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking adoption does not meet any of the four preceding applicability requirements.

This rulemaking adoption does not meet the statutory definition of a "Major environmental rule," nor does it meet any of the four applicability requirements for a "Major environmental rule." Therefore, this rulemaking is not subject to Texas Government Code, §2001.0225.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No public comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission has prepared a takings impact assessment for these adopted rules in accordance with Texas Government Code, §2007.043. The commission's preliminary assessment is that implementation of these adopted rules will not constitute a taking of real property. The commission adopts this rulemaking for the purpose of promulgating rules to: 1) identify third-party certification systems for mass balance attribution that may be used for the purposes of the definitions of "recycled material" and "recycled plastics" in THSC, §361.421(6) and §361.421(6-a), respectively; and 2) establish guidelines by which a product is eligible to be considered a recycled product in accordance with THSC, §361.4215 and §361.427.

The commission's analysis indicates that Texas Government Code, Chapter 2007, does not apply to these adopted rules because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). HB 3060 amended THSC, §361.0151 (Recycling), §361.421 (Definitions), and §361.427 (Specifications for Recycled Products); and added §361.4215 (Mass Balance Attribution). These statutory enactments require the commission promulgate rules to: 1) identify third-party certification systems for mass balance attribution that may be used for the purposes of the definitions of "recycled material" and "recycled plastics" in THSC, §361.421(6) and §361.421(6-a), respectively; and 2) establish guidelines by which a product is eligible to be considered a recycled product in accordance with THSC, §361.4215 and §361.427, which provides a unilateral expectation that does not rise to the level of a recognized interest in private real property. Therefore, Texas Government Code, Chapter 2007 does not apply to these adopted rule changes because the adopted rulemaking falls within the exception under Texas Government Code, §2007.003(b)(4).

Further, the commission determined that promulgation of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rulemaking because the adopted rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. Therefore, the adopted rules will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the rulemaking adoption and found the adoption is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the amendments are consistent with CMP goals and policies because the rulemaking will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No public comments were received regarding the CMP.

Public Comment

The commission offered a public hearing on June 20, 2024. The comment period closed on June 25, 2024. No public comments were received.

SUBCHAPTER B. RECYCLING, REUSE, AND MATERIALS RECOVERY GOALS AND RATES

30 TAC §328.7

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; the Administrative Procedures Act under Texas Government Code, Chapter 2001, which authorizes the commission as a state agency to adopt rules pursuant to the rulemaking process; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to

adopt rules consistent with the general purposes of the Solid Waste Disposal Act; THSC, §361.0151, which requires the commission to base its goals or requirements for recycling or the use of recycled materials on the definitions and principles established by Subchapter N, THSC, §§361.421 - 361.431; THSC, §361.022 and §361.023, which set public policy in the management of municipal solid waste and hazardous waste to include reuse or recycling of waste; THSC, §361.041, which conditionally excludes post-use polymers and recoverable feedstock from classification as solid waste when are converted using pyrolysis, gasification, solvolysis, or depolymerization into valuable raw materials, valuable intermediate products or valuable final products, that include plastic monomers, chemicals, waxes, lubricants, and chemical feedstocks; THSC, §361.078 which identifies that THSC Chapter 361 Subchapter B does not abridge, modify or restrict the commission's authority to adopt rules issue permits and enforce the terms of permits as necessary to maintain state authorization of Texas' hazardous waste program; THSC, §361.119, which requires the commission to adopt rules and to adopt rules consistent with THSC Chapter 361 to ensure that solid waste processing facilities are regulated as solid waste facilities and not allowed to operate unregulated as recycling facilities; THSC, §361.4215 which authorizes the commission to identify third-party certification systems for mass balance attribution that may be used for the purposes of THSC, §361.421(6) and (6-a); THSC, §361.425 which provides that the commission shall adopt rules for administering governmental entity recycling programs; THSC, §361.426, which provides that the commission shall adopt rules for administering governmental entity preferences for recycled products; and THSC, §361.427 which authorizes the commission to promulgate rules to establish guidelines by which a product is eligible to be considered a recycled product.

The adopted amendments to §328.302 will implement House Bill (HB) 3060, 88th Texas Legislature, 2023, by adding the definitions of "Recycled material," "Recycled plastics," and "Recycling" so that they are consistent with the definitions under THSC, §361.421. The adopted amendments to §328.302 will also implement HB 3060 by adding the definitions of "Recycled product" and "Third-party certification system" so that they are consistent with the definitions under THSC, §361.427 and §361.4215, respectively.

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 October 28, 2024.

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Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
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Proposal publication date: May 24, 2024
For further information, please call: (512) 239-6087

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SUBCHAPTER L. THIRD-PARTY CERTIFICATION SYSTEMS FOR MASS BALANCE ATTRIBUTION

30 TAC §§328.301 - 328.304

Statutory Authority

The new sections are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; the Administrative Procedures Act under Texas Government Code, Chapter 2001, which authorizes the commission as a state agency to adopt rules pursuant to the rulemaking process; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act; THSC, §361.0151, which requires the commission to base its goals or requirements for recycling or the use of recycled materials on the definitions and principles established by Subchapter N, THSC, §§361.421 - 361.431; THSC, §361.022 and §361.023, which set public policy in the management of municipal solid waste and hazardous waste to include reuse or recycling of waste; THSC, §361.041, which conditionally excludes post-use polymers and recoverable feedstock from classification as solid waste when are converted using pyrolysis, gasification, solvolysis, or depolymerization into valuable raw materials, valuable intermediate products or valuable final products, that include plastic monomers, chemicals, waxes, lubricants, and chemical feedstocks; THSC, §361.078 which identifies that THSC Chapter 361 Subchapter B does not abridge, modify or restrict the commission's authority to adopt rules issue permits and enforce the terms of permits as necessary to maintain state authorization of Texas' hazardous waste program; THSC, §361.119, which requires the commission to adopt rules and to adopt rules consistent with THSC Chapter 361 to ensure that solid waste processing facilities are regulated as solid waste facilities and not allowed to operate unregulated as recycling facilities; THSC, §361.4215 which authorizes the commission to identify third-party certification systems for mass balance attribution that may be used for the purposes of THSC, §361.421(6) and (6)(a); THSC, §361.425 which provides that the commission shall adopt rules for administering governmental entity recycling programs; THSC, §361.426, which provides that the commission shall adopt rules for administering governmental entity preferences for recycled products; and THSC, §361.427 which authorizes the commission to promulgate rules to establish guidelines by which a product is eligible to be considered a recycled product.

The adopted new §328.302 will implement House Bill (HB) 3060, 88th Texas Legislature, 2023, by adding the definitions of "Recycled material." "Recycled plastics." And "Recycling." so that they are consistent with the definitions under THSC, §361.421. The adopted new §328.302 will also implement HB 3060 by adding the definitions of "Recycled product" and "Third-party certification system" so that they are consistent with the definitions under THSC, §361.427 and §361.4215, respectively.

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

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Texas Commission on Environmental Quality
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For further information, please call: (512) 239-6087

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CHAPTER 330. MUNICIPAL SOLID WASTE

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §§330.1, 330.3, 330.5, 330.7, 330.13, 330.15, 330.23, 330.57, 330.63, 330.65, 330.69, 330.103, 330.125, 330.147, 330.165, 330.171, 330.173, 330.217, 330.421, 330.545, 330.613, 330.615, 330.633, 330.635, 330.951, 330.953, 330.959, 330.987, 330.991, 330.993, and 330.995.

Amended §§330.1, 330.3, 330.5, 330.7, 330.13, 330.15, 330.23, 330.57, 330.63, 330.65, 330.69, 330.103, 330.125, 330.147, 330.165, 330.171, 330.173, 330.217, 330.421, 330.545, 330.613, 330.615, 330.633, 330.635, 330.951, 330.953, 330.959, 330.987, 330.991, 330.993, and 330.995 are adopted *without changes* to the proposed text as published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3713) and therefore will not be republished.

Amendments to §330.954 have been withdrawn.

Background and Summary of the Factual Basis for the Adopted Rules

Promulgation of House Bill 3060

The commission adopts this rulemaking to implement House Bill (HB) 3060, 88th Texas Legislature, 2023. HB 3060 amended Texas Health and Safety Code (THSC), §361.003 (Definitions), §361.041 (Treatment of Post-Use Polymers and Recoverable Feedstocks as Solid Waste), and §361.119 (Regulation of Certain Facilities as Solid Waste Facilities). These statutory enactments expanded existing conditional exclusions from the definition of solid waste and regulations applicable to owners and operators of facilities that convert plastics and certain other nonhazardous recyclable material through pyrolysis and gasification to include the processes of depolymerization and solvolysis. The conditional exclusion is dependent upon two conditions being satisfied: (1) an advanced recycling facility owner or operator must demonstrate that the primary function of the facility is to convert materials into products for subsequent beneficial use; and (2) that all solid waste generated from converting the materials is disposed of at a solid waste management facility authorized by the commission. The commission's implementation of HB 3060 in Chapter 330 is only applicable to material that is classified as nonhazardous municipal solid waste if discarded. Implementation of provisions enacted by HB 3060 applicable to material that will be classified as industrial solid waste if discarded is adopted in Chapter 335 (Industrial Solid Waste and Municipal Hazardous Waste).

Electronic Application Submittal

The commission also adopts this rulemaking to implement Senate Bill (SB) 1397, 88th Texas Legislature, 2023. SB 1397 enacted Texas Water Code, §5.1734 which requires the commission to post on its website an electronic copy of an administratively complete permit application and subsequent revisions to the application. The adopted rulemaking amends §330.57 by reducing the number of paper applications an applicant is required to submit from four to two, and replacing the requirement for the applicant to post the initial application on a publicly accessible website with the requirement that the commission will post an electronic copy of the application on the commission's website.

Rule Citation Corrections

This rulemaking makes minor and non-substantive updates to incorrect rule citations or references.

Correcting use of and reference to Conditionally Exempt Small Quantity Generator which has changed to Very Small Quantity Generator

The adopted rulemaking corrects the name of the lowest tier hazardous waste generator category which the Environmental Protection Agency (EPA) changed from "conditionally exempt small quantity generator" (CESQG) to "very small quantity generator" (VSQG) as part of the Hazardous Waste Generator Improvements Rule promulgated in the November 28, 2016, issue of the *Federal Register* (81 FR 85732). The commission adopted the Generator Improvements Rule in Chapter 335 of this title effective February 3, 2022. The Generator Improvements Rule also introduced alternative standards applicable to VSQGs who generate greater amounts of hazardous waste during an "episodic event" as defined in 40 Code of Federal Regulations (CFR) Part 262, Subpart L. The commission adopted by reference in 30 Texas Administrative Code (TAC) §335.60 the alternative standards applicable to VSQGs who generate hazardous waste during an "episodic event" (47 TexReg 318). Under the new conditional exclusion, a VSQG may generate greater than a VSQG quantity of hazardous waste in a calendar month during an episodic event, manage the hazardous waste as regulated hazardous waste, and avoid being up-classified to a small quantity generator or a large quantity generator by complying with all of the conditions for exclusion for an episodic event which among other things include consigning the hazardous waste to be transported by a registered hazardous waste transporter accompanied by a manifest to an authorized hazardous waste facility. A VSQG may qualify for up to two episodic events per year. A second episodic event must be approved by the executive director. If a VSQG complies with the conditional exclusion for an episodic event, hazardous waste generated during a month in which a VSQG has an episodic event is classified as regulated hazardous waste and is not authorized to be disposed of in any Type of Class I Municipal Solid Waste (MSW) landfill. Additionally, delivery to a Type I MSW landfill of hazardous waste generated during a month in which a VSQG has an episodic event is prohibited for the landfill operator, the generator, and the transporter, would defeat the VSQG's conditional exclusion, and result in the VSQG being up-classified to a small quantity generator or a large quantity generator.

As part of this rulemaking, the commission is also adopting amendments of 30 TAC Chapter 281 (Applications Processing); Chapter 328 (Waste Minimization and Recycling); and Chapter 335 (Industrial Solid Waste and Municipal Hazardous Waste), concurrently in this issue of the *Texas Register.*

Section by Section Discussion

Subchapter A: General Information

§330.1, Purpose and Applicability

The commission amends §330.1(c) by revising the 30 TAC §312.121 title to read "Purpose and Applicability." The title was revised in a separate rulemaking (45 TexReg 2542).

§330.3, Definitions

The commission amends §330.3 to add four new definitions as paragraphs in alphabetical order, remove two definition paragraphs, and renumber the subsequent definition paragraphs accordingly to account for these amendments.

The commission adopts §330.3(5) to add the definition of "Advanced recycling facility." This amendment implements HB 3060 by adding the definition of "Advanced recycling facility" to implement the new definition of "Advanced recycling facility" in THSC, §361.003.

The commission amends renumbered §330.3(11)(A) and (B), the definition of "Asbestos-containing materials," by replacing the citation to Appendix A, Subpart F in 40 CFR Part 763 with a reference to Appendix E, Subpart E in 40 CFR Part 763. The appendix was moved in a federal rulemaking (60 FR 31917).

The commission amends renumbered §330.3(33), the definition of "Conditionally exempt small-quantity generator," by replacing the definition with a reference to the definition of "Very small quantity generator" in this section. EPA changed the name of the lowest tier hazardous waste generator category from "conditionally exempt small quantity generator" to "very small quantity generator" in the Hazardous Waste Generator Improvements Rule promulgated in the *Federal Register* on November 28, 2016 (81 FR 85732). This change is consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318). Additional information is available under the Background and Summary of the Factual Basis for the Adopted Rules.

The commission adopts §330.3(39) to add the definition of "Depolymerization." This amendment implements HB 3060 by adding the definition of "Depolymerization" to implement the definition of "Depolymerization" in THSC, §361.003.

The commission amends renumbered §330.3(60), the definition of "Gasification," to implement the definition of "Gasification" in THSC, §361.003, as amended by HB 3060. The definition of "Gasification" in §361.003 was amended to remove crude oil, diesel, gasoline, diesel blend stock, gasoline blend stock, home heating oil, ethanol, or other fuels from the list of valuable raw materials, valuable intermediate products, and valuable final products that the process of gasification may convert recoverable feedstocks into.

The commission deletes existing §330.3(59) to remove the definition of "Gasification facility." This amendment implements HB 3060 which removed the definition of "Gasification facility" from THSC, §361.003.

The commission amends renumbered §330.3(93), the definition of "Municipal solid waste landfill unit," by replacing the reference to a conditionally exempt small-quantity generator with hazardous waste generated by a very small quantity generator not experiencing an episodic event. This change is necessary to conform with the commission's adoption of EPA's Hazardous Waste Generator Improvements Rule promulgated in the *Federal Register* on November 28, 2016, (81 FR 85732) in Chapter 335 of this title (47 TexReg 318). Additional information is available under the Background and Summary of the Factual Basis for the Adopted Rules.

The commission amends renumbered §330.3(118) to revise the definition of "Post-use polymers" to implement the definition of "Post-use polymers" in THSC, §361.003, as amended by HB 3060, and clarify that post-use polymers will be classified as nonhazardous waste if discarded. HB 3060 amended the definition of "Post-use polymers" in §361.003 by: replacing the term plastic polymers with the term plastics; adding agricultural, preconsumer recovered materials and postconsumer materials to the sources of plastics that post-use polymers may be derived from; removing a list of wastes, including medical waste, electronic waste, tires, and construction or demolition debris, that when mixed with used polymers will not meet the definition of post-use polymers; identifying that post-use polymers are sorted from solid waste and other regulated waste and may contain residual amounts of organic material; specifying that plastics mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility do not meet the definition of post-use polymers; identifying that post-use polymers are used or intended for use as a feedstock or for the production of feedstocks, raw materials, intermediate products or final products using advanced recycling; and adding that post-use polymers are processed or held prior to processing at an advanced recycling facility.

The commission amends renumbered §330.3(121) to revise the definition of "Processing" consistent with the definition of "Processing" in THSC, §361.003, as amended by HB 3060. The definition of "Processing" in §361.003 was amended to except two additional activities, "Solvolysis" and "Depolymerization," from the definition.

The commission amends renumbered §330.3(124) to revise the definition of "Pyrolysis" to implement the definition of "Pyrolysis" in THSC, §361.003, as amended by HB 3060. The definition of "Pyrolysis" in §361.003 was amended to clarify which materials are included and excluded in the list of valuable raw materials, valuable intermediate products, and valuable final products that the process of pyrolysis converts post-use polymers into. The amended definition clarified this list by adding the term "polymers," and by removing a comma between the terms "plastic" and "monomer" which omitted "plastic" from the list; and by removing "crude oil, diesel, gasoline, diesel and gasoline blendstock, home heating oil, ethanol, or another fuel" from the list.

The commission deletes existing §330.3(124) to remove the definition of "Pyrolysis facility." This amendment implements HB 3060 which removed the definition of "Pyrolysis facility" from THSC, §361.003.

The commission amends §330.3(127) to revise the definition of "Recoverable feedstock" to implement the definition of "Recoverable feedstock" in THSC, §361.003, as amended by HB 3060, and clarify that recoverable feedstock may be derived from recoverable nonhazardous waste, including nonhazardous municipal solid waste and other post-industrial nonhazardous waste. The definition of "Recoverable feedstock" in §361.003 was amended to clarify that recoverable feedstock may be processed to be used as feedstock in an advanced recycling facility or through gasification and removing the term gasification facility, excluding materials and post-industrial wastes containing post-use polymers that have been processed into a

fuel, and including post-industrial waste the commission or EPA has determined are feedstocks and not solid waste.

The commission amends §330.3(128) to revise the definition of "Recyclable material" to implement the definition of "Recyclable material" in THSC, §361.421, as amended by HB 3060.

The commission amends §330.3(129) to revise the definition of "Recycling" to implement the definition of "Recycling" in THSC, §361.421, as amended by HB 3060. The definition of "Recycling" in §361.421 was revised by adding the terms "feedstocks" to the materials used in the "manufacture" of new products, excluding applicability to incineration of plastics or waste-to-energy processes, and by adding the conversion of post-use polymers and recoverable feedstocks through solvolysis or depolymerization.

The commission amends §330.3(133), the definition of "Regulated hazardous waste," by replacing the reference to a conditionally exempt small-quantity generator with a very small quantity generator not experiencing an episodic event. This change is necessary to conform with EPA's Hazardous Waste Generator Improvements Rule and will be consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 of this title (47 TexReg 318). EPA introduced a new conditional exclusion applicable to the lowest and middle tier of hazardous waste generator categories, very small quantity generator (VSQG) and small quantity generator (SQG). The new conditional exemption for episodic events allows hazardous waste generators who comply with the conjunctive requirements of the conditional episodic exclusion to avoid being up-classified as the next highest category of hazardous waste generator. A VSQG and a SQG who manage hazardous waste generated during an episodic event must temporarily comply with the conditions for exclusion for the generator category that will be applicable if the generator is not taking advantage of the episodic exclusion. Such conditions for exclusion include packaging, placarding, and transporting the hazardous waste to an authorized hazardous waste facility accompanied by a uniform hazardous waste manifest. Therefore, the exception from being classified as regulated hazardous waste that was previously applicable to hazardous waste generated by a CESQG is now only applicable to hazardous waste generated by a VSQG during a calendar month in which the VSQG did not generate hazardous waste from an episodic event. Hazardous waste generated by a VSQG during a calendar month that the VSQG generated hazardous waste from an episodic event must be managed as regulated hazardous waste and is not eligible to be managed as special waste, or to be disposed at a Type I MSW landfill authorized to accept hazardous waste as special waste, or a Type I AE MSW landfill authorized to accept hazardous waste as special waste.

The commission amends §330.3(151)(D) to revise the definition of "Solid waste" to implement revisions to the definition of "Solid waste" in THSC, §361.003, as amended by HB 3060. HB 3060 expanded the existing conditional exclusions from the definition of "Solid waste" applicable to post-use polymers and recovered feedstocks processed through pyrolysis and gasification that are not classified as hazardous waste to also include post-use polymers and recovered feedstocks processed through solvolysis or depolymerization that are not classified as hazardous waste. The conditional exclusion requires post-use polymers and recovered feedstocks to be converted into products for subsequent beneficial reuse and that solid waste generated from converting the materials be disposed of in a solid waste management facility authorized by the commission under THSC, Chapter 361.

The commission adopts §330.3(153) to add the definition of "Solvolysis." This amendment will implement HB 3060 by adding a new definition of "Solvolysis" to implement the new definition of "Solvolysis" in THSC, §361.003. The adopted definition will also implement HB 3060 by clarifying that the conditional exclusions from classification and regulation as solid waste applicable to plastics recycling is not applicable to a solvolysis manufacturing process that produces fuel products.

The commission amends renumbered §330.3(155), the definition of "Special Waste," by replacing the reference in subparagraph (A) to conditionally exempt small-quantity generators with very small quantity generators not experiencing an episodic event. This change is necessary to conform with the commission's adoption of EPA's Hazardous Waste Generator Improvements Rule in Chapter 335 of this title (47 TexReg 318). Additional information is available under the Background and Summary for the Adopted rules.

The commission adopts §330.3(177) to add the definition of "Very small quantity generator" consistent with the commission's adoption in 30 TAC §335.1 of EPA's new term describing the lowest tier hazardous waste generator category (47 TexReg 318). EPA changed the name of the lowest tier hazardous waste generator category from "conditionally exempt small quantity generator" in 40 CFR §260.10 (81 FR 85732). Additional information is available under the Background and Summary for the Adopted rules.

§330.5, Classification of Municipal Solid Waste Facilities

The commission amends §330.5(a) and (a)(2) by replacing the reference to "conditionally exempt small quantity generators" in subsection (a), and "conditionally exempt small-quantity generator" in paragraph (a)(2) with "very small quantity generators" and "very small quantity generator" respectively. This change is necessary to conform with EPA's Hazardous Waste Generator Improvements Rule and is consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318). Additional information is available under the Background and Summary for the Adopted rules.

The commission amends §330.5(a)(1) - (3) by removing the reference to Chapter 330, Subchapter F. Subchapter F was determined to be obsolete in the Chapter 330 Quadrennial Rules Review (44 TexReg 6383) and subsequently repealed in a separate rulemaking (45 TexReg 7605). MSW facilities remain subject to National Environmental Laboratory Accreditation Conference (NELAC) standards.

The commission amends §330.5(a)(2) by removing §330.467 from the list of applicable design and operational standards and properly listing the section titles. Section 330.467 does not exist and the inclusion of the section in the list of applicable design and operational standards was a typographical error.

The commission amends §330.5(a)(7) by replacing the reference to §330.9(k) with §330.9(j). Subsection (k) was relettered in a separate rulemaking (41 TexReg 3735).

§330.7, Permit Required

The commission amends §330.7(e)(2) by revising the title for 30 TAC §106.494 to read "Non-commercial Incinerators and Crematories." The title was revised in a separate rulemaking (43 TexReg 4758).

The commission amends §330.7(i)(1)(E)(i) by replacing the reference to 25 TAC Chapter 295, Subchapter C with 25 TAC Chap-

ter 296. The provisions from Chapter 295, Subchapter C were moved to Chapter 296 in a separate rulemaking (46 TexReg 3880).

§330.13, Waste Management Activities Exempt from Permitting, Registration, or Notification

The commission amends §330.13(g) by replacing "a gasification or pyrolysis facility" with "an advanced recycling facility," updating the conditions for exclusion in §330.13(g)(1) and (2) by removing the requirement that the facility must keep records on-site to demonstrate that the primary purpose of the facility is to convert materials into products "that have a resale value greater than the cost of converting the materials for beneficial use," adding that the facility must keep records on-site to demonstrate that the primary purpose of the facility is to convert materials "into products for beneficial use" and that "all solid waste generated from converting materials has been disposed of at a disposal facility authorized by the commission to accept and dispose of the solid waste, with the exception of small amounts of solid waste that may be inadvertently and unintentionally disposed of in another manner," and adding a list of information that must be included in such documentation. These revisions will implement revised THSC, §361.003 and §361.119(c-1), as amended by HB 3060.

§330.15, General Prohibitions

The commission amends §330.15(e)(5) by removing subsection (f) from the 40 CFR §82.156 reference. The federal regulations regarding air conditioning and refrigeration equipment were revised in a federal rulemaking (81 FR 82272).

§330.23, Relationships with Other Governmental Entities

The commission amends §330.23(c) by replacing the reference to FAA Advisory Circular 150/5200.33A with the most recent version of the document, FAA Advisory Circular 150/5200-33C, "Hazardous Wildlife Attractants on or near Airports," February 21, 2020.

Subchapter B: Permit and Registration Application Procedures

§330.57, Permit and Registration Applications for Municipal Solid Waste Facilities

The commission amends §330.57(e)(1) by replacing the requirement that an applicant provide four initial copies of an application with a requirement that an applicant provide two paper copies and one accurate duplicate in electronic format, and by removing the phrase "up to 18." Additional information about the adopted changes to §330.57 is available under the Background and Summary of the Factual Basis for the Adopted Rules.

The commission adopts new §330.57(e)(2) to require the electronic copy of the application to meet the formatting and drawing requirements of the paper copy. The rulemaking adoption renumbers the subsequent paragraphs accordingly to account for the added paragraph.

The commission amends §330.57(g)(1) by clarifying paper applications shall be submitted in binders.

The commission amends renumbered §330.57(g)(7) by replacing the sentence "Dividers and tabs are encouraged" with the sentence "Use dividers and tabs."

The commission deletes §330.57(i)(1) and renumbers the subsequent paragraphs accordingly to account for the deleted paragraph, including the replacement of paragraphs "(3), (4), and (5)" with "(2), (3), and (4)" in renumbered §330.57(i)(5). Additionally, the exception applicable to Type IAE and Type IVAE landfill facilities is removed under the adopted requirement and these facilities will be required to submit an accurate duplicate of an application in an electronic format.

The commission amends renumbered §330.57(i)(1) by adding that the commission will post the electronic accurate duplicate of applications on its website and removing the requirement that applicants post their identity and web address where the application is available. The commission's implementation of SB 1397 will replace the requirement that owners and operators post applications on a publicly accessible internet website.

The commission amends renumbered §330.57(i)(4) by replacing the reference to 30 TAC §39.405(h)(2) with §39.426. The provisions from §39.405(h) were moved to §39.426 in a separate rulemaking (46 TexReg 5784).

§330.63, Contents of Part III of the Application

The commission amends §330.63(e)(3)(A) by replacing the reference to §330.63(e)(2) with a reference to §330.63(e)(1)(B), the location of the provision related to regional geologic units. The reference to §330.63(e)(2) was made in error.

§330.65, Contents of Part IV of the Application

The commission amends §330.65(b) by replacing the reference to 30 TAC §90.32 with §90.30, replacing the reference to 30 TAC §90.36 with §90.31, and removing the reference to the National Environmental Performance Track (NEPT). The provisions from §90.32 and §90.36 were moved in a separate rulemaking (37 TexReg 5310), and the NEPT was terminated May 14, 2009.

§330.69, Public Notice for Registrations

The commission amends §330.69(b)(3) by replacing the reference to 30 TAC §39.405(h)(2) with §39.426. The provisions from §39.405(h) were moved to §39.426 in a separate rulemaking (46 TexReg 5784).

Subchapter C: Municipal Solid Waste Collection and Transportation

§330.103, Collection and Transportation Requirements

The commission amends §330.103(b)(4) by revising the 30 TAC Chapter 312, Subchapter B title to read "Land Application And Storage of Biosolids and Domestic Septage." The title was revised in a separate rulemaking (45 TexReg 5784).

Subchapter D: Operational Standards for Municipal Solid Waste Landfill Facilities

§330.125, Recordkeeping Requirements

The commission amends §330.125(h) by replacing the reference to 30 TAC §305.70(k) with §305.70(l) because annual waste acceptance rate exceedance is not listed in §305.70(k). Public notice will continue to be required for modifications to increase waste acceptance rates.

§330.147, Disposal of Large Items

The commission amends §330.147(c) by removing subsection (f) from the 40 CFR §82.156 reference. The federal regulations regarding air conditioning and refrigeration equipment were revised in a federal rulemaking (81 FR 82272).

§330.165, Landfill Cover

The commission amends §330.165(d) by replacing the reference to 30 TAC §305.70(m) with §305.62(k). The provisions from

§305.70(m) were moved to §305.62(k) in a separate rulemaking (33 TexReg 4157).

§330.171, Disposal of Special Wastes

The commission amends §330.171(b)(2) by replacing "plan" with "Special Waste Management Plan" for clarity.

The commission amends §330.171(b)(2)(B) by replacing the reference to 30 TAC §335.6(c) with §335.504, the accurate location for the hazardous waste determination requirement.

The commission amends §330.171(c)(6) by replacing the reference to a "conditionally exempt small quantity generator" with "very small quantity generator" and by clarifying that the ability to accept hazardous waste is not applicable to regulated hazardous waste including hazardous waste generated by a VSQG during a calendar month in which the VSQG generated hazardous waste during an episodic event. This change is necessary to conform with EPA's Hazardous Waste Generator Improvements Rule and is consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318). Additional information about this adopted amendment is available under the Background and Summary for the Adopted Rules.

§330.173, Disposal of Industrial Wastes

The commission amends §330.173(b) by revising the 30 TAC §335.10 title to read "Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste." The title was revised in a separate rulemaking (45 TexReg 3780).

The commission amends §330.173(g) by deleting an outdated term "waste-shipping control ticket," and by requiring a facility operator to comply with the manifest requirements in §335.10(c) and in §335.15(1) and (3). The commission has updated Class 1 industrial waste manifesting requirements to reflect current federal electronic manifest system and user fees requirements applicable when a Uniform Hazardous Waste Manifest accompanies shipments of state-regulated waste (47 TexReg 318).

Subchapter E: Operational Standards for Municipal Solid Waste Storage and Processing Units

§330.217, Pre-Operation Notice

The commission amends §330.217(a)(1) by replacing the reference to §330.207(h) with §330.207(g). This amendment corrects a typographical error.

Subchapter J: Groundwater Monitoring and Corrective Action

§330.421, Monitor Well Construction Specifications

The commission amends §330.421(a)(2)(A) by replacing the reference to "National Science Foundation-certified polyvinyl chloride" with "National Sanitation Foundation-certified polyvinyl chloride." This amendment corrects a typographical error.

The commission amends §330.421(g) by replacing the reference to 16 TAC §76.702 with 16 TAC §76.72, replacing the reference to 16 TAC §76.1004 with 16 TAC §76.104, and identifying the §76.104 title as "Technical Requirements--Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Injurious Water Zones." These revisions were made in a separate rulemaking (38 TexReg 1142).

Subchapter M: Location Restrictions

§330.545, Airport Safety

The commission amends §330.545(d) by removing the statement "Guidelines regarding location of landfills near airports can be found in Federal Aviation Administration Order 5200.5(A), January 31, 1990." This amendment removes a reference to obsolete guidance cancelled on July 1, 1997.

Subchapter N: Landfill Mining

§330.613, Sampling and Analysis Requirements for Final Soil Product

The commission amends §330.613(c), (f), and (h) by replacing the reference to Chapter 330, Subchapter F with a reference to the NELAC standards. Subchapter F was repealed in a separate rulemaking (45 TexReg 7605), and MSW facilities remain subject to NELAC standards.

§330.615, Final Soil Product Grades and Allowable Uses

The commission amends §330.615(b) by replacing the reference to Chapter 330, Subchapter F with a reference to the NELAC standards. Subchapter F was repealed in a separate rulemaking (45 TexReg 7605), and MSW facilities remain subject to NELAC standards.

Subchapter O: Regional and Local Solid Waste Management Planning and Financial Assistance General Provisions

§330.633, Definitions of Terms and Abbreviations

The commission amends §330.633(3) by replacing the reference to a "conditionally exempt small-quantity generator" with "very small quantity generator." This change is necessary to conform with EPA's Hazardous Waste Generator Improvements Rule. Additional information about this adopted amendment is available under the Background and Summary of the Factual Basis for the Adopted Rules.

§330.635, Regional and Local Solid Waste Management Plan Requirements

The commission amends §330.635(a)(2)(C)(v) by replacing the reference to Texas Health and Safety Code (THSC) §363.0635 with §363.064(10). The reference to THSC §363.0635 was a typographical error.

Subchapter T: Use of Land Over Closed Municipal Solid Waste Landfills

§330.951, Definitions

The commission amends §330.951(8) by replacing the reference to a "conditionally exempt small-quantity generator" with "very small quantity generator." This change is necessary to conform with EPA's Hazardous Waste Generator Improvements Rule. Additional information regarding this adopted amendment is available under the Background and Summary of the Factual Basis for the Adopted Rules.

The commission further amends§330.951(8) by replacing "§330.3 (relating to Definitions)" with "40 Code of Federal Regulations §257.2." The reference to §330.3 was a typographical error.

§330.953, Soil Test Required before Development

The commission amends §330.953(e) by replacing the reference to 22 TAC §131.166 with 22 TAC §137.33. The provisions regarding sealing procedures were reorganized to 22 TAC Chapter 137 in a separate rulemaking (29 TexReg 4878).

§330.954, Development Permit, Development Authorization, and Registration Requirements, Procedures, and Processing

The commission does not adopt the proposed amendment of §330.954(c)(1), (2), and (3) that would have replaced the references to 30 TAC §305.70(j)(6) with references to §305.70(k)(12). While the commission recognizes that §305.70 was reorganized in a separate rulemaking (33 TexReg 4157) and that §305.70(j)(6) is not applicable to §330.954, upon further consideration the commission has determined that 30 TAC §305.70(k)(12) is not globally applicable to the three references in 30 TAC §330.954(c)(1), (2), and (3) and elects to not adopt this proposed amendment.

§330.959, Contents of Registration Application for an Existing Structure Built Over a Closed Municipal Solid Waste Landfill Unit

The commission amends §330.959(b)(1) by replacing the reference to §330.957(e) with §330.957(h). The reference to §330.957(e) was a typographical error.

Subchapter U: Standard Air Permits for Municipal Solid Waste Landfill Facilities and Transfer Stations

§330.987, Certification Requirements

The commission amends §330.987(e) by removing paragraph (1) and renumbering the remaining paragraphs. The provisions from §116.621 were replaced with Chapter 330, Subchapter U in a separate rulemaking (31 TexReg 2490).

§330.991, Technical and Operational Requirements for all Municipal Solid Waste Landfill Sites

The commission amends §330.991(a)(11)(E) by revising the 30 TAC §116.617 title to read "State Pollution Control Project Standard Permit." The title was revised in a separate rulemaking (31 TexReg 516).

§330.993, Additional Requirements for Owners or Operators of Category 3 Municipal Solid Waste Landfills

The commission amends §330.993(a)(2) by replacing the reference to 40 CFR §60.752(2)(b)(v) with §60.752(b)(2)(v). The reference to §60.752(2)(b)(v) was a typographical error.

§330.995, Recordkeeping and Reporting Requirements for all Municipal Solid Waste Landfill Sites

The commission amends §330.995(d) by replacing the reference to 40 CFR §63.1980 with §63.1981. The provisions from §63.1980 were replaced by §63.1981 in a separate rulemaking (85 FR 17261).

Final Regulatory Impact Determination

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a "Major environmental rule" which is defined in Texas Government Code, §2001.0225(g)(3) as a rule with a specific intent "to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state."

First, the adopted rulemaking does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the adopted rulemaking is to add, remove, revise, and renumber definitions in Chapter 330 so that they are consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318) and the definitions in THSC Chapter 361 and to make minor and non-substantive updates to incorrect rule citations or references in Chapter 330. Therefore, the intent is not to protect the environment or reduce risks to human health from environmental exposure.

Second, the adopted rulemaking does not meet the statutory definition of a "Major environmental rule" because the adopted rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the adopted rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the adopted rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Finally, the adopted rulemaking does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This adopted rulemaking does not meet any of the four preceding applicability requirements.

This adopted rulemaking does not meet the statutory definition of a "Major environmental rule," nor does it meet any of the four applicability requirements for a "Major environmental rule." Therefore, this rulemaking is not subject to Texas Government Code, §2001.0225.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No public comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission has prepared a takings impact assessment for these adopted rules in

accordance with Texas Government Code, §2007.043. The commission's preliminary

assessment is that implementation of these adopted rules will not constitute a taking

of real property. The commission adopts this rulemaking for the purpose of adding, removing, revising, and renumbering definitions in Chapter 330 so that they are consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318) and the definitions in THSC Chapter 361 and making minor and non-substantive updates to incorrect rule citations or references in Chapter 330.

The commission's analysis indicates that Texas Government Code, Chapter 2007, does not apply to these adopted rules based upon an exception to applicability in Texas Government Code, §2007.003(b)(5). The adopted rules will add, remove,

revise, and renumber definitions in Chapter 330 so that they are consistent with the commission's adoption of the Hazardous Waste Generator Improvements Rule in Chapter 335 (47 TexReg 318) and the definitions in THSC Chapter 361 and to make minor and non-substantive updates to incorrect rule citations or references in Chapter 330., which provides a unilateral expectation that does not rise to the level of a recognized interest in private real property. Therefore, Texas Government Code, Chapter 2007 does not apply to these adopted rule changes because the adopted rulemaking falls within the exception under Texas Government Code, §2007.003(b)(5).

Further, the commission determined that promulgation of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rulemaking because the adopted rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. Therefore, the adopted rules will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rulemaking and found the adoption is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the amendments are consistent with CMP goals and policies because the rulemaking will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies.

The commission invited public comment regarding the consistency with the CMP during the public comment period. No public comments were received regarding the CMP.

Public Comment

The commission offered a public hearing on June 20, 2024. The comment period closed on June 25, 2024. No public comments were received.

SUBCHAPTER A. GENERAL INFORMATION

30 TAC §330.1

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

The adopted amendments implement House Bill 3060, 88th Texas Legislature, 2023.

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

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SUBCHAPTER B. PERMIT AND REGISTRATION APPLICATION PROCEDURES

30 TAC §§330.57, 330.63, 330.65, 330.69

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

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SUBCHAPTER C. MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORTATION

30 TAC §330.103

Statutory Authority

The amendment is adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

The adopted amendment implements House Bill 3060, 88th Texas Legislature, 2023.

§330.103. Collection and Transportation Requirements.

(a) Municipal solid waste (MSW) containing putrescibles shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Collection should be made more frequently in circumstances where vector breeding or harborage potential is significant.

(b) Transporters of MSW shall be responsible for ensuring that all solid waste collected is unloaded only at facilities authorized to accept the type of waste being transported. Off-loading at an unauthorized location or at a facility not authorized to accept such waste is a violation of this subchapter. Allowable wastes at a particular solid waste management facility may be determined by reviewing the following regulations as applicable:

(1) §330.5 of this title (relating to Classification of Municipal Solid Waste Facilities);

(2) Subchapter D of this chapter (relating to Operational Standards for Municipal Solid Waste Landfill Facilities);

(3) Subchapter E of this chapter (relating to Operational Standards for Municipal Solid Waste Storage and Processing Units);

(4) Chapter 312, Subchapters A - E of this title (relating to General Provisions; Land Application and Storage of Biosolids and Domestic Septage; Surface Disposal; Pathogen and Vector Attraction Reduction; and Guidelines and Standards for Sludge Incineration); and

(5) §330.15(e) of this title (relating to General Prohibitions).

(c) All transporters of solid waste shall maintain records for at least three years to document that waste was taken to an authorized MSW facility. Upon request of the executive director or of a local government with jurisdiction, a transporter is responsible for providing adequate documentation regarding the destination of all collected waste including billing documents to prove that the proper disposal procedure is being followed.

(d) Each transporter delivering waste to a solid waste management facility shall immediately remove any non-allowable wastes delivered to the solid waste management facility or, at the option of the disposal facility operator, pay any applicable surcharges to have the disposal facility operator remove the non-allowable waste.

(e) If non-allowable wastes are discovered in a load of waste being discharged at an MSW facility, the transporter shall immediately take all necessary steps to determine the origin of the non-allowable waste and to assure that non-allowable wastes are either not collected or are taken to a facility approved to accept such wastes.

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SUBCHAPTER D. OPERATIONAL STANDARDS FOR MUNICIPAL SOLD WASTE LANDFILL FACILITIES

30 TAC §§330.125, 330.147, 330.165, 330.171, 330.173

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

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SUBCHAPTER E. OPERATIONAL STANDARDS FOR MUNICIPAL SOLID WASTE STORAGE AND PROCESSING

30 TAC §330.217

Statutory Authority

The amendment is adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

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SUBCHAPTER J. GROUNDWATER MONITORING AND CORRECTIVE ACTION

30 TAC §330.421

Statutory Authority

The amendment is adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

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SUBCHAPTER M. LOCATION RESTRICTIONS

30 TAC §330.545

Statutory Authority

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SUBCHAPTER N. LANDFILL MINING

30 TAC §330.613, §330.615

Statutory Authority

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SUBCHAPTER O. REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLANNING AND FINANCIAL ASSISTANCE GENERAL PROVISIONS

30 TAC §330.633, §330.635

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

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SUBCHAPTER T. USE OF LAND OVER CLOSED MUNICIPAL SOLID WASTE LANDFILLS

30 TAC §§330.951, 330.953, 330.954, 330.959

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act.

The adopted amendments implement House Bill 3060, 88th Texas Legislature, 2023.

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

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SUBCHAPTER U. STANDARD AIR PERMITS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES AND TRANSFER STATIONS

30 TAC §§330.987, 330.991, 330.993, 330.995

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act. The standard air permit is also adopted under THSC, §382.002, which establishes the policy of the state and the purpose of the chapter to safeguard the state's air resources from pollution; §382.011, which gives the commission the powers necessary or convenient to carry out its responsibilities under the TCAA; THSC, §382.017, which authorizes the commission to adopt rules; THSC, §382.051, which authorizes the commission to issue a permit to construct or modify a facility that may emit air contaminants, including a standard permit for similar sources; and THSC, §382.05195, which authorizes the commission to issue standard permits and to adopt rules as necessary to implement standard permits.

The adopted amendments implement House Bill 3060, 88th Texas Legislature, 2023.

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

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CHAPTER 335. INDUSTRIAL SOLID WASTE AND MUNICIPAL HAZARDOUS WASTE

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendment to §§335.1, 335.206, 335.325, and 335.329.

Amended §§335.1, 335.206, 335.325, and 335.329 are adopted *without changes* to the proposed text as published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3770) and therefore will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

Promulgation of House Bill 3060

The commission adopts this rulemaking to implement House Bill (HB) 3060, 88th Texas Legislature, 2023. HB 3060 amended Texas Health and Safety Code (THSC), §361.003 (Definitions), §361.041 (Treatment of Post-Use Polymers and Recoverable Feedstocks as Solid Waste), and §361.119 (Regulation of Certain Facilities as Solid Waste Facilities). These statutory enactments expanded the existing conditional exclusion from the definition of solid waste and regulations applicable to owners and operators of facilities that convert plastics and certain other nonhazardous recyclable material through pyrolysis and gasification to include the processes of depolymerization and solvolysis. The conditional exclusion is dependent upon two conditions being satisfied: (1) an advanced recycling facility owner or operator must demonstrate that the primary function of the facility is to convert materials into products for subsequent beneficial use; and (2) that all solid waste generated from converting the materials is disposed of at a solid waste management facility authorized by the commission. The commission's adopted implementation of HB 3060 in Chapter 335 is only applicable to material that will be classified as nonhazardous industrial solid waste if discarded. Implementation of provisions enacted by HB 3060 applicable to material that will be classified as municipal solid waste if discarded is proposed in Chapter 330 (Municipal Solid Waste).

Rule Citation Corrections

In addition to HB 3060 implementation, this rulemaking makes minor and non-substantive updates to incorrect rule citations or references.

As part of this rulemaking, the commission is also adopting revisions to 30 Texas Administrative Code (TAC) Chapter 281 (Applications Processing); Chapter 328 (Waste Minimization and Recycling); and Chapter 330 (Municipal Solid Waste), concurrently in this issue of the *Texas Register.*

Section by Section Discussion

§335.1, Definitions

The commission amends §335.1 to add three new definitions as paragraphs in alphabetical order, remove two definition paragraphs, and renumber the subsequent definition paragraphs accordingly to account for these amendments.

The commission adopts §335.1(8) to add the definition of "Advanced recycling facility." This amendment implements HB 3060 by adding the definition of "Advanced recycling facility" to implement the new definition of "Advanced recycling facility" in THSC, §361.003.

The commission adopts §335.1(50) to add the definition of "Depolymerization." This amendment implements HB 3060 by adding the definition of "Depolymerization" to implement the new definition of "Depolymerization" in THSC, §361.003.

The commission amends renumbered §335.1(76) to revise the definition of "Gasification" to implement the amended definition of "Gasification" in THSC, §361.003, as amended by HB 3060. The definition of "Gasification" in §361.003 was amended to remove crude oil, diesel, gasoline, diesel blend stock, gasoline blend stock, home heating oil, ethanol, or other fuels from the list of valuable raw materials, valuable intermediate products, and valuable final products that the process of gasification may convert recoverable feedstocks into.

The commission deletes existing §335.1(75) to remove the definition of "Gasification facility." This amendment implements HB 3060 which removed the definition of "Gasification facility" from THSC, §361.003.

The commission amends renumbered §335.1(89)(B), the definition of "Incinerator," by removing "Gasification facility" and "Pyrolysis facility" and establishing that incinerators are not an "Advanced recycling facility" managing "Recoverable feedstock." These amendments also implement the new definition of "Advanced recycling facility" and the removal of the definitions of "Gasification facility" and "Pyrolysis facility" from THSC, §361.003 as enacted by HB 3060.

The commission amends renumbered §335.1(137) to revise the definition of "Post-use polymers" to implement the definition of "Post-use polymers" in THSC, §361.003, as amended by HB 3060, and clarify that post-use polymers will be classified as nonhazardous waste if discarded. HB 3060 amended the definition of "Post-use polymers" in §361.003 by: replacing the term plastic polymers with the term plastics; adding agricultural, preconsumer recovered materials and postconsumer materials to the sources of plastics that post-use polymers may be derived from; removing a list of wastes, medical waste, electronic waste, tires, and construction or demolition debris, that when mixed with used polymers will not meet the definition of post-use polymers; identifying that post-use polymers are sorted from solid waste and other regulated waste and may contain residual amounts of organic material; specifying that plastics mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility do not meet the definition of post-use polymers; identifying that post-use polymers are used or intended for use as a feedstock or for the production of feedstocks, raw materials, intermediate products or final products using advanced recycling; and adding that post-use polymers are processed or held prior to processing at an advanced recycling facility.

The commission amends renumbered §335.1(143) to revise the definition of "Pyrolysis" to implement the definition of "Pyrolysis" in THSC, §361.003, as amended by HB 3060. The definition of "Pyrolysis" in §361.003 was amended to clarify which materials are included and excluded from the list of valuable raw materials, valuable intermediate products, and valuable final products that the process of pyrolysis converts post-use polymers into. The amended definition clarified this list by adding the term "polymers," and by removing a comma between the terms "plastic" and "monomer" which omitted "plastic" from the list; and by removing "crude oil, diesel, gasoline, diesel and gasoline blendstock, home heating oil, ethanol, or another fuel" from the list.

The commission deletes existing §335.1(143) to remove the definition of "Pyrolysis facility." This amendment implements HB 3060 which removed the definition of "Pyrolysis facility" from THSC, §361.003.

The commission amends §335.1(146) to revise the definition of "Recoverable feedstock" to implement the definition of "Recoverable feedstock" in THSC, §361.003, as amended by HB 3060. The definition of "Recoverable feedstock" in §361.003 was amended to clarify that recoverable feedstock may be processed to be used as feedstock in an advanced recycling facility or through gasification by removing the term gasification facility, excluding materials and post-industrial wastes containing post-use polymers that have been processed into a fuel, and including post-industrial waste that the commission or EPA has determined are feedstocks and not solid waste.

The commission amends §335.1(160)(A)(v) to revise the definition of "Solid waste" to implement revisions to the definition of "Solid waste" in THSC, §361.003, as amended by HB 3060. HB 3060 expanded the existing conditional exclusions from the definition of "Solid waste" applicable to post-use polymers and recovered feedstocks processed through pyrolysis and gasification that are not classified as hazardous waste to also include post-use polymers and recovered feedstocks processed through solvolysis or depolymerization that are not classified as hazardous waste. The conditional exclusion requires that the facility operator keep records on-site demonstrating that post-use polymers and recovered feedstocks are converted into products for subsequent beneficial reuse and that solid waste generated from converting the materials is disposed of at a solid waste management facility authorized by the commission under THSC, Chapter 361.

The commission adopts §335.1(162) to add the definition of "Solvolysis." This amendment will implement HB 3060 by adding a new definition of "Solvolysis" to implement the new definition of "Solvolysis" in THSC, §361.003. The adopted definition implements HB 3060 by clarifying that the conditional exclusions from classification and regulation as solid waste applicable to plastics recycling are not applicable to a solvolysis manufacturing process that produces fuel products.

§335.206, Petitions for Rulemaking

The commission amends §335.206 by removing an extra comma and replacing the reference to 30 TAC §275.78 with the correct citation, 30 TAC §20.15. The rules regarding rule petitions were previously moved from §275.78 to §20.15 without substantive revisions in accordance with a procedural rule reorganization project (21 TexReg 4719).

§335.325, Industrial Solid Waste and Hazardous Waste Management Fee Assessment

The commission amends §335.325(d) and (m) by replacing the reference to 30 TAC §335.69 with the correct citation, 30 TAC §335.53. The conditional exemptions from permitting requirements for hazardous waste generators were repealed from 30 TAC §335.69 and adopted in 30 TAC §335.53 as part of the commission's adoption of the federal Hazardous Waste Generator Improvements Rule (47 TexReg 318). The Generator Improvements Rule (81 FR 85732) reorganized 40 Code of Federal Regulations Part 262 and defined "condition for exemption" as requirements that must be met in order to obtain an exemption from any applicable requirement.

§335.329, Records and Reports

The commission amends §335.329(a)(2) by replacing the reference to 30 TAC §361.326 with the correct citation, 30 TAC §335.326. The reference to §361.326 is a typographical error.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a "Major environmental rule" which is defined in Texas Government Code, §2001.0225(g)(3) as a rule with a specific intent "to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state."

First, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because its specific intent is not to protect the environment or reduce risks to human health from environmental exposure. The specific intent of the rulemaking adoption is to add, remove, and revise definitions in Chapter 335 so that they are consistent with the definitions in THSC Chapter 361 and to make minor and non-substantive updates to incorrect rule citations or references in Chapter 335.

Second, the rulemaking adoption does not meet the statutory definition of a "Major environmental rule" because the adopted rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It is not anticipated that the cost of complying with the adopted rules will be significant with respect to the economy as a whole or with respect to a sector of the economy; therefore, the rulemaking adoption will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Finally, the rulemaking adoption does not meet any of the four applicability requirements for a "Major environmental rule" listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking adoption does not meet any of the four preceding applicability requirements.

This rulemaking adoption does not meet the statutory definition of a "Major environmental rule," nor does it meet any of the four applicability requirements for a "Major environmental rule." Therefore, this rulemaking is not subject to Texas Government Code, §2001.0225.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No public comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission has prepared a takings impact assessment for these adopted rules in

accordance with Texas Government Code, §2007.043. The commission's preliminary assessment is that implementation of these adopted rules will not constitute a taking of real property. The commission adopts this rulemaking for the purpose of adding, removing, and revising definitions in Chapter 335 so that they are consistent with the definitions in THSC Chapter 361 and to make minor and non-substantive updates to incorrect rule citations or references in Chapter 335.

The commission's analysis indicates that Texas Government Code, Chapter 2007, does not apply to these adopted rules based upon an exception to applicability in TGC, §2007.003(b)(5). The adopted rules will add, remove, and revise definitions in Chapter 335 so that they are consistent with the definitions in THSC Chapter 361 and make minor and non-substantive updates to incorrect rule citations or references in Chapter 335, which provides a unilateral expectation that does not rise to the level of a recognized interest in private real property. Therefore, Texas Government Code, Chapter 2007 does not apply to these adopted rule changes because the rulemaking adoption falls within the exception under Texas Government Code, §2007.003(b)(5).

Further, the commission determined that promulgation of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, there are no burdens imposed on private real property under the rulemaking because the adopted rules neither relate to, nor have any impact on, the use or enjoyment of private real property, and there will be no reduction in property value as a result of these rules. Therefore, the adopted rules will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the rulemaking adoption and found the adoption is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the amendments are consistent with CMP goals and policies because the rulemaking will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies. No public comments were received regarding the CMP.

Public Comment

The commission offered a public hearing on June 20, 2024. The comment period closed on June 25, 2024. No public comments were received.

SUBCHAPTER A. INDUSTRIAL SOLID WASTE AND MUNICIPAL HAZARDOUS WASTE IN GENERAL

30 TAC §335.1

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; THSC §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act; and THSC, §361.078 which identifies that THSC Chapter 361 Subchapter B does not abridge, modify or restrict the commission's authority to adopt rules issue permits and enforce the terms of permits as necessary to maintain state authorization of Texas' hazardous waste program; and THSC, §361.119, which requires the commission to adopt rules and to adopt rules consistent with THSC, Chapter 361 to ensure that solid waste processing facilities are regulated as solid waste facilities and not allowed to operate unregulated as recycling facilities.

The adopted amendment implements House Bill 3060, 88th Texas Legislature, 2023.

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

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SUBCHAPTER G. LOCATION STANDARDS FOR HAZARDOUS WASTE STORAGE, PROCESSING, OR DISPOSAL

30 TAC §335.206

Statutory Authority

The amendment is adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act; and THSC, §361.078 which identifies that THSC Chapter 361 Subchapter B does not abridge, modify or restrict the commission's authority to adopt rules issue permits and enforce the terms of permits as necessary to maintain state authorization of Texas' hazardous waste program; and THSC, §361.119, which requires the commission to adopt rules and to adopt rules consistent with THSC, Chapter 361 to ensure that solid waste processing facilities are regulated as solid waste facilities and not allowed to operate unregulated as recycling facilities; and Texas Government Code, §2001.021, which requires the commission by rule to prescribe the form and procedure for the submission, consideration, and disposition of a request made by an interested person to the commission to adopt a rule.

The adopted amendment implements House Bill 3060, 88th Texas Legislature, 2023, and Texas Government Code, §2001.021.

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

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SUBCHAPTER J. HAZARDOUS WASTE GENERATION, FACILITY AND DISPOSAL FEE SYSTEM

30 TAC §335.325, §335.329

Statutory Authority

The amendments are adopted under the authority of Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under TWC and other laws of the state; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.011, which grants the commission authority over municipal solid waste; THSC, §361.017, which grants the commission jurisdiction over industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules consistent with the general purposes of the Solid Waste Disposal Act; and THSC, §361.078 which identifies that

THSC Chapter 361 Subchapter B does not abridge, modify or restrict the commission's authority to adopt rules issue permits and enforce the terms of permits as necessary to maintain state authorization of Texas' hazardous waste program; and THSC, §361.119, which requires the commission to adopt rules and to adopt rules consistent with THSC Chapter 361 to ensure that solid waste processing facilities are regulated as solid waste facilities and not allowed to operate unregulated as recycling facilities.

The adopted amendments implement House Bill 3060, 88th Texas Legislature, 2023. The provisions regarding the conditional exemption from permitting requirements for hazardous waste generators were readopted in 30 Texas Administrative Code §335.53 in accordance with a state rule reorganization project (47 TexReg 318) necessitated by the federal reorganization of 40 Code of Federal Regulations Part 262 associated with the federal Hazardous Waste Generator Improvements Rule (81 FR 85732).

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 209. FINANCE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 209, Subchapter A, Collection of Debts, §209.1 and §209.2; Subchapter B, Payment of Fees for Department Goods and Services, §209.23; and Subchapter C, Donations and Contributions, §209.33. The department adopts §209.23 without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5021) and the text will not be republished. The department adopts §§209.1, 209.2, and 209.33 with changes at adoption to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5021) and those sections will be republished. The changes to §§209.1, 209.2, and 209.33 are described in the Reasoned Justification section below. In conjunction with this adoption, the department adopts the repeal of 43 TAC §209.34, which is also published in this issue of the *Texas Register.*

The department adopts amendments to make the rules consistent with statute; to comply with statute; to remove unnecessary language; to add context or authority for certain rules; to clarify the rules; and to make the rules consistent with current processes, procedures, and terminology. In addition, the department adopts amendments that renumber subdivisions within the rules due to the addition or deletion of subdivisions.

REASONED JUSTIFICATION.

Subchapter A. Collection of Debts

An adopted amendment to §209.1 adds a new subsection (a) to state the purpose of the section. The department adopts §209.1(a) with a change at adoption to delete the unnecessary second sentence in the proposed text, which incorporated by reference any requirements in 1 TAC §59.2 that were not addressed in §209.1 to the extent that Government Code, §2107.002 requires a state agency to include the requirements in rule. Government Code, §2107.002 requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation and a reasonable period for collection. Government Code, §2107.002 also requires such rules to conform to the "uniform guidelines" established by the attorney general. The Office of the Attorney General adopted 1 TAC §59.2 (Collection Process: Uniform Guidelines and Referral of Delinquent Collections), and §59.2(b) expressly contains the "uniform guidelines," which are referenced in Government Code, §2107.002. Adopted §209.1 complies with Government Code, §2107.002 because it contains the procedures for collecting a delinquent obligation and a reasonable period for collection in conformance with the uniform guidelines contained in 1 TAC §59.2(b), as well as the relevant definitions contained in 1 TAC §59.2(a). The language in 1 TAC §59.2(c) governs the referral of a delinquent obligation to an attorney, and already expressly applies to a state agency that refers a delinquent obligation to the attorney general or another attorney for collection under the "referral guidelines" referenced in Government Code, §2107.003. For these reasons, the department adopts new §209.1(a) with a change at adoption to delete the second proposed sentence as it was unnecessary. Due to the adoption of new §209.1(a), an adopted amendment to §209.1 re-letters the subsection for definitions to subsection (b).

An adopted amendment deletes the definition for the word "person" in re-lettered §209.1(b) because the word is already defined in Government Code, §311.005, which applies to administrative rules under Government Code, §311.002(4). An adopted amendment also renumbers the last definition in re-lettered §209.1(b) due to the deletion of the definition for the word "person." Adopted amendments to the definition for the word "security" in re-lettered §209.1(b) delete references to an "entity" because the definition for the word "person" in Government Code, §311.005 includes "any other legal entity."

An adopted amendment to §209.1 deletes prior subsection (b) regarding collection from contractors for the following reasons: 1) this issue is already addressed in §209.1(f)(2) regarding the warrant hold procedures of the Texas Comptroller of Public Accounts that are authorized by Government Code, §403.055 for any debtor to the state; and 2) the language in prior §209.1(b) did not reference the due process requirements under Government Code, §403.055.

Adopted amendments to §209.1(c)(1) through (3) change the words "will" and "should" to "shall" for consistency and to clarify that the department has a duty to take the actions regarding the notice and demand letters to the debtor. These adopted amendments to §209.1(c)(1) through (3), as well as other adopted amendments to change the words "will" or "should" to "shall" in this adoption order, were necessary to make the rule text

consistent with Government Code, §311.016(2), which defines the word "shall" to mean "imposes a duty," unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute. Government Code, §311.002(4) states that Government Code, Chapter 311 applies to each rule adopted under a code. The Chapter 209 rules were adopted under various codes, including the Government Code and the Transportation Code.

Adopted amendments to §209.1(c)(4) change certain instances of the word "will" to "must" to indicate that it is a condition precedent for each letter to comply with certain requirements before the letter becomes a demand letter under 1 TAC §59.2(a)(4), which defines the term "demand letter" within the definition for the term "make demand." Government Code, §311.016(3) defines the word "must" to mean "creates or recognizes a condition precedent," unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute. Adopted amendments to §209.1(c)(4) also clarify that the department shall include the notation "Return Service Requested" on the envelope for each demand letter, and shall resend the demand letter if the United States Postal Service (USPS) provides the department with an address correction. Although 1 TAC §59.2(b)(3) states that all demand letters should be mailed in an envelope bearing the notation "address correction requested" in conformity with a citation to a section in an appendix to the Code of Federal Regulations, the cited section does not currently contain the notation or mailer endorsement called "address correction requested." Also, the USPS published a document called "507 Quick Service Guide l Postal Explorer" in which the USPS stated that for first-class mail, the USPS action on the mailer endorsement "Return Service Requested" is to return the "mailpiece" with the new address or the reason for non-delivery attached at no charge. Therefore, "Return Service Requested" is the appropriate notation to include on the envelope to ensure that USPS provides the department with any new address for the recipient, so that the department can resend the demand letter.

Adopted amendments to §209.1(d)(1) replace a clause with the word "debtor" because the clause repeats a portion of the definition for the word "debtor" in re-lettered §209.1(b). Adopted amendments to §209.1(d)(2) and (3) add the word "correct" to be consistent with 1 TAC §59.2(b)(2). An adopted amendment to §209.1(d) also adds a new paragraph (4) to be consistent with 1 TAC §59.2(b)(2), which requires that the department's records contain an accurate physical address when a fiduciary or trust relationship exists between the agency as principal and the debtor as trustee. Due to the addition of new paragraph (4), adopted amendments renumber the remaining paragraphs in §209.1(d). Adopted amendments to renumbered §209.1(d)(5), (10) and (12) add a reference to the debtor for clarity. An adopted amendment to renumbered §209.1(d)(13) replaces the word "account" with the word "obligation" because the word "obligation" is defined in re-lettered §209.1(b).

An adopted amendment to §209.1(e)(1)(D) deletes the language that said the department is not required to prepare and file a proof of claim in a bankruptcy case when the department is represented by the attorney general. According to 1 TAC §59.2(b)(6)(C)(i), the attorney general will assist the state agency with the preparation of a proof of claim, but clause (i) does not say the attorney general will file the proof of claim. Also, an adopted amendment to §209.1(e)(1)(D) clarifies that the department shall prepare and file a proof of claim in the bankruptcy case when appropriate based on advice from the attorney general. When the department receives a bankruptcy notice, the department first determines whether the person owes an obligation to the department and whether the bankruptcy notice instructs creditors to not file a claim because no property appears to be available to pay creditors. If the person owes an obligation to the department and the bankruptcy notice does not instruct creditors to not file a proof of claim, the department consults with the attorney general regarding whether to file a proof of claim in the case. The adopted amendments to §209.1(e)(1)(D) reflect the department's current practice with regard to filing proofs of claim.

Adopted amendments to §209.1(e)(1)(E) modify the language to be consistent with 1 TAC §59.2(b)(6)(C)(v), which says the state agency should file a claim in each probate proceeding administering the decedent's estate, and does not provide any exception for agencies that are represented by the attorney general.

Adopted amendments to §209.1(e)(2) change the word "will" to "shall" for consistency and to indicate the department has a duty regarding the actions listed in paragraph (2). Adopted amendments to §209.1(e)(2) also clarify that the list of uncollectible obligations is illustrative, rather than exhaustive, and includes obligations that are not legally collectible or are uncollectible as a practical matter. These amendments make §209.1(e)(2) consistent with 1 TAC §59.2(b)(6).

An adopted amendment to §209.1(e)(2)(A) deletes the words "dismissed or" because the term "discharged in bankruptcy" is used to refer to an obligation that a creditor is legally prohibited from collecting. *See* 11 U.S.C. §524. Adopted amendments to §209.1(e)(2)(B) make the language consistent with 1 TAC §59.2(b)(6)(C)(ii) regarding a limitation provision in a lawsuit.

An adopted amendment to §209.1(e)(2) deletes prior subparagraph (C) because §209.1(e)(2) is a list of delinquent obligations the department shall consider to be uncollectible and shall make no further efforts to collect, consistent with 1 TAC §59.2(b)(6)(C). Although 1 TAC §59.2(b)(6)(C)(iii) provides an exception for when circumstances indicate that the account is clearly uncollectible, clause (iii) provides the general rule that the obligation should be referred to the attorney general if a corporation has been dissolved, has been in liquidation under Chapter 7 of the United States Bankruptcy Code, or has forfeited its corporate privileges or charter; or if a foreign corporation had its certificate of authority revoked. The language in prior §209.1(e)(2)(C) implied the opposite of what 1 TAC §59.2(b)(6)(C)(iii) provides by stating the general rule is that the delinquent obligation is uncollectible in these situations unless the circumstances indicate that the account is nonetheless collectible or that fraud was involved. If a corporation described in 1 TAC §59.2(b)(6)(C)(iii) owes a delinquent obligation to the department, the department shall refer the obligation to the attorney general unless the circumstances indicate that the obligation is clearly uncollectible or another exception under §209.1 or 1 TAC 59.2 applies. For example, the obligation might be legally uncollectible under Business Organizations Code, Chapter 11 regarding the termination of a domestic entity. The list of uncollectible obligations in §209.1(e)(2) is illustrative, rather than exhaustive. Adopted amendments to §209.1(e)(2) re-letter the subsequent subparagraphs due to the deletion of prior §209.1(e)(2)(C).

Adopted amendments to re-lettered §209.1(e)(2)(D) make the language consistent with 1 TAC §59.2(b)(6)(C)(v). If the debtor

is deceased, 1 TAC §59.2(b)(6)(C)(v) says state agencies should file a claim in each probate proceeding administering the debtor's estate and that the delinquent obligation should be classified as uncollectible if such probate proceeding has concluded and there are no remaining assets of the decedent available for distribution.

An adopted amendment to §209.1(e)(3) adds a reasonable tolerance below which the department shall not refer a delinquent obligation to the attorney general as required by 1 TAC §59.2(b)(8). The adopted amendment to §209.1(e)(3) expressly includes the department's current reasonable tolerance practice, which is to only refer a delinquent obligation to the attorney general if the delinquent obligation exceeds $2,500 or the attorney general advises otherwise. Adopted amendments to §209.1(e)(3) also delete the factors that 1 TAC §59.2(b)(8) requires state agencies to consider in establishing the reasonable tolerance, as well as "policy reasons or other good cause," which was a factor the department previously added to §209.1(e)(3) to consider when making a determination of whether to refer a delinquent obligation to the attorney general. With the adoption of the specific dollar threshold for referral established in rule, as well as the exception based on advice from the attorney general, the deleted factors and the complex case-by-case analysis they implied are no longer necessary.

Adopted amendments to §209.1(e)(4) change the words "will" and "should" to "shall" for consistency and to indicate the department has a duty to refer a delinquent obligation to the attorney general for collection efforts if the department determines that the delinquent obligation shall be referred.

Adopted amendments to §209.1(f)(1) make the language consistent with 1 TAC §59.2(b)(4) regarding the filing of a lien to secure an obligation.

The department adopts §209.1(f)(2) with a change at adoption to change the catchline from "Warrants" to "Warrant Holds" to accurately describe the contents of paragraph (2). An adopted amendment to §209.1(f)(2) also changes the word "will" to "shall" for consistency and to clarify that the department has a duty to comply with the "warrant hold" procedures of the Texas Comptroller of Public Accounts that are authorized by Government Code, §403.055. Although state employees at the Texas Comptroller of Public Accounts and other Texas state agencies refer to the "warrant hold" procedures, the procedures also apply to the issuance of electronic funds transfers. Government Code, §403.055 ensures that no payments in the form of a warrant or an electronic funds transfer are made to a person who is indebted to the state or has a tax delinquency, unless an exception applies. In addition, adopted amendments to §209.1(f)(2) make the language consistent with Government Code, §403.055 by referencing electronic funds transfers and the fact that there are certain exceptions that authorize the Texas Comptroller of Public Accounts to issue a warrant or initiate an electronic funds transfer to a debtor. Lastly, adopted amendments to §209.1(f)(2) clarify that the "warrant hold" procedures apply to each individual debtor.

An adopted amendment to the title of §209.2 and adopted amendments to the text throughout §209.2 change the words "check" or "checks" to "payment device" to be consistent with the terminology in Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge the drawer or indorser a processing fee not to exceed $30 when seeking to collect the face value of the payment device. An adopted amendment to the title of §209.2 and adopted amendments to §209.2(a) and (c) also clarify that §209.2 applies even if there is one instance of a dishonored payment device by changing the rule terminology from the plural to the singular regarding the payment device. In addition, adopted amendments to the text throughout §209.2 replace the word "endorser" with "indorser" to be consistent with the terminology in Business and Commerce Code, §3.506.

Adopted amendments to §209.2(b) clarify that the definitions in Business and Commerce Code, Chapter 3 govern §209.2 and control to the extent of a conflict with the definitions in §209.2(b). Adopted amendments to §209.2(b)(2) modify the definition for "dishonored payment device" by replacing the word "instrument" with the term "payment device" because Business and Commerce Code, §3.506 uses the term "payment device." Adopted amendments to §209.2(b)(2) also modify the definition for "dishonored payment device" to delete the portion of the definition that defined a check because adopted new §209.2(b)(3) adds the definition for the term "payment device" from Business and Commerce Code, §3.506. In addition, adopted amendments to §209.2(b)(2) correct a grammatical error and modify the definition for "dishonored payment device" to clarify that the listed reasons for the dishonor of the payment device are examples.

An adopted amendment to the first sentence in §209.2(c) changes the word "will" to "shall" to indicate that the department has a duty to process a dishonored payment device using the procedures outlined in §209.2. An adopted amendment to the first sentence in §209.2(c) also replaces the term "returned check" with the term "dishonored payment device," which is a defined term in §209.2(b). In addition, an adopted amendment to the first sentence in §209.2(c) clarifies that the department shall not charge a processing fee to the drawer or indorser if the department is prohibited from doing so under Business and Commerce Code, §3.506, which prohibits a person from charging a processing fee to a drawer or indorser if a reimbursement fee has been collected under Article 102.007(e) of the Code of Criminal Procedure.

Adopted amendments throughout §209.2(c) change the word "will" to "shall" for consistency and to impose a duty on the person to whom the language applies. Adopted amendments to §209.2(c)(2) and (3) replace the term "payment processor charges" with a reference to any service charge under §209.23 of this title for clarity. The department adopts §209.2(c)(3) with a change at adoption to keep the comma after the word "title" for consistency. An adopted amendment to §209.2(c)(3) also clarifies that the reference to the processing fee is a reference to the $30 processing fee.

An adopted amendment to §209.2(c)(4) clarifies that the fee that is referenced in §209.23 of this title is a service charge. An adopted amendment to §209.2(c)(4) also replaces the word "chapter" with "title" for consistency. In addition, the department adopts §209.2(c)(4) with a change at adoption to remove "(relating to Methods of Payment)" because an adopted amendment to §209.2(c)(2) adds this language, which is only required to be included the first time that §209.23 is referenced in §209.2.

An adopted amendment to §209.2(d) adds a reference to this title to correctly reference §209.1, which is contained in Title 43. An adopted amendment to §209.2(d) also replaces the term "payment processor charges" with the clause "service charge under §209.23 of this title" for clarity. In addition, an adopted amendment to §209.2(d) clarifies that the reference to the processing fee is a reference to the $30 processing fee. Lastly, an adopted

amendment to §209.2(d) breaks the sentence into two separate sentences for clarity and readability.

An adopted amendment to §209.2(e) changes the word "will" to "shall" for consistency and to impose a duty on the department regarding the order in which the drawer's or indorser's payment to the department shall be applied. An adopted amendment to §209.2(e) also clarifies that the reference to the processing fee is a reference to the $30 processing fee. In addition, adopted amendments to §209.2(e) clarify that after the drawer's or indorser's payment is applied to the $30 processing fee, the balance would first be applied to any service charge required by §209.23 of this title, and then to the face amount of the dishonored payment device.

Subchapter B. Payment of Fees

An adopted amendment to the title of Subchapter B of Chapter 209 deletes the words "for Department Goods and Services" to clarify that Subchapter B is not limited to payment of fees for department goods and services. For example, §209.23 applies to a payment for administrative penalties that are due under an administrative enforcement case, such as the penalties under Transportation Code, §643.251.

An adopted amendment to §209.23(a) states that the purpose of §209.23 is to establish the methods of payment that the department may accept and to make the public aware of a potential service charge for certain methods of payment. Although §209.23 lists many different methods of payment that the department may accept, the transaction itself dictates the methods of payment that the department will accept for that particular transaction. For example, when the department's enforcement attorneys send a Notice of Department Decision (NODD) to an alleged violator of certain Texas laws, the NODD tells the person to pay the administrative penalties with a check, cashier's check, or money order. Another example is the department's website, which provides information regarding the methods of payment that are accepted for certain transactions, such as the purchase of an oversize/overweight permit. An adopted amendment to §209.23(a) also deletes a reference to the point of sale because the reference to the "point of sale" may confuse a person who is paying an administrative penalty to the department.

An adopted amendment to §209.23(a)(3) deletes the language that says a personal or business check is not an acceptable method of payment of fees under Transportation Code, §502.094 to clarify that this exception is not the only exception for certain methods of payment. For example, §209.2(c)(3) dictates the methods of payment that the department will accept when a person is required to make certain payments to the department after the person's payment device is not honored upon presentment to a bank or other financial institution upon which the payment device is drawn or made. Adopted amendments to §209.23(b) also clarify that a person paying by debit card or electronic funds transfer has a duty to pay any applicable service charge per transaction, which is already required under current law. In addition, an adopted amendment to §209.23(b) deletes a reference to a payment made by Automated Clearing House (ACH) because the Texas Department of Information Resources (DIR) does not currently charge a service fee under Government Code, §2054.2591 when a payment is made by ACH through DIR's payment engine.

Subchapter C. Donations or Contributions

An adopted amendment to the title of Subchapter C of Chapter 209 and the title of §209.33 changes the "and" to "or," so the title is "Donations or Contributions" because adopted new §209.33(b) defines the term "donation or contribution." An adopted amendment to the title of §209.33 also deletes the words "Acceptance of" because adopted amendments to §209.33 expand the scope of the rule to include other topics, such as the standards of conduct governing the relationship between board members, department employees, and donors.

Adopted new §209.33(a) and (b) clarify that §209.33 provides uniform criteria and procedures regarding donations or contributions, as well as standards of conduct governing the relationship between the board, the department's employes, and donors, regardless of the type or value of the donation or contribution and regardless of whether the donor is a private donor.

Adopted new §209.33(a) adds language regarding the purpose of §209.33 because adopted amendments to §209.33 address criteria and procedures regarding donations or contributions under Transportation Code, §1001.008 and Government Code, Chapter 575, as well as standards of conduct that state agencies are required to address in rule under Government Code, §2255.001. As described below, the citations to the applicable statutes in adopted new §209.33(a) clarify that §209.33 applies, even though some of the cited statutes use different terminology and apply to certain kinds of donations or contributions.

Adopted new §209.33(b) adds definitions for clarity, including the definitions for the terms "board," "department," and "executive director," which are found in Transportation Code, §1001.001. Adopted new §209.33(b) also defines the term "donation or contribution" as anything of value in any form, including real or personal property, money, materials, or services, given by a donor to the board, as authorized by Transportation Code, §1001.008. Although Transportation Code, §1001.008 refers to both donations or contributions, a contribution is also a donation, and both are also gifts. The new definition for the term "donation or contribution" in adopted new §209.33(b) clarifies that §209.33 applies to any donation or contribution, even if the donation or contribution does not fall within the scope of Government Code, Chapter 575 because the donation or contribution does not fall within the definition of the word "gift" under Government Code, §575.001 or does not trigger the dollar threshold for a gift under Government Code, §575.002, which states that Government Code, Chapter 575 only applies to a gift that has a value of $500 or more. Although Government Code, Chapter 575 uses the term "gift" rather than "donation or contribution," Government Code, §575.001 defines "gift" to mean a donation of money or property.

In addition, adopted new §209.33(b) defines the word "donor" as a person who makes a donation or contribution to the board, as authorized by Transportation Code, §1001.008. According to Government Code, §311.002(4), Chapter 311 of the Government Code applies to administrative rules such as §209.33, which are adopted under a code, such as the Government Code or the Transportation Code. Government Code, §311.005 defines the word "person" to include a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. The new definition for "donor" in adopted new §209.33(b) clarifies that §209.33 applies to a donation or contribution from any donor, even if the donation or contribution is from a public donor, such as another governmental agency, and does not fall within the scope of Government Code, §2255.001, which only applies to a donation or contribution of money from a private donor.

Due to the addition of adopted new §209.33(a) and (b), adopted amendments to §209.33 re-letter prior subsections (a) and (b) to

become subsections (c) and (d). Adopted amendments to re-lettered §209.33(c) and (d) clarify that subsections (c) and (d) apply to the donation or contribution, even if it is a single donation or contribution. An adopted amendment to re-lettered §209.33(d) also clarifies that the records of the board meeting shall include the name of the donor. Although Government Code, §575.004 does not apply to a gift that has a value of less than $500, the second sentence in adopted re-lettered §209.33(d) applies to that donation or contribution if the board accepts the donation or contribution because it is a good practice to include the required information under re-lettered §209.33(d) in the records of the board meeting for transparency. Government Code, §575.004 requires a state agency that accepts a gift that has a value of $500 or more to record the name of the donor, a description of the gift, and a statement of the purpose of the gift in the minutes of the meeting for the state agency's governing board.

Adopted new §209.33(e) requires the department to use the donation or contribution for the purpose specified by the donor to the extent the stated purpose complies with Transportation Code, §1001.008. Transportation Code, §1001.008 only authorizes the board to accept a donation or contribution for the purposes of carrying out the board's functions and duties. In addition, Transportation Code, §1001.008 prohibits the board from accepting a donation or contribution from an entity or association of entities that the board regulates.

Adopted new §209.33(f) adds language from repealed §209.34, which said the department may document terms or conditions relating to a donation or contribution through a donation agreement with the donor. Adopted new §209.33(f) also amends the language incorporated from repealed §209.34 by changing the clause "terms or conditions" to "terms and conditions," to correct the terminology, and by using the term "donation or contribution" as defined by adopted new §209.33(b). In conjunction with the repeal of §209.34, adopted new §209.33(f) consolidates the language regarding donations or contributions into one rule.

Adopted new §209.33(g) states that board members and department employees shall comply with the standards of conduct under Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees when interacting with a donor or potential donor. Government Code, §2255.001(a) and (b)(2), (3), and (4) require each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency, and the state agency's employees, including the donor's "use" of the state agency's employee or property, service by the state agency's officer or employee as an officer or director of the donor, and the donor's monetary enrichment of the state agency's officer or employee. Although Government Code, §2255.001 only applies to a donation or contribution of money from a private donor, adopted amendments to §209.33 apply to a donation or contribution from any donor, including another governmental agency, because a conflict of interest could exist for any donation or contribution. Even though Transportation Code, §1005.001 already says the board and department employees are subject to the standards of conduct under Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees, adopted new §209.33(g) repeats the language from Transportation Code, §1005.001 with some modifications because Government Code, §2255.001 requires each state agency that is authorized by statute to accept money from a private donor to adopt rules governing the relationship between the donor, the state agency, the state agency's officers, and the state agency's employees. The provisions in Government Code, §2255.001 regarding a private organization that exists to further the purposes and duties of a state agency do not apply to the department because there is no such private organization for the department; therefore, the department is not adopting a rule regarding such a private organization.

The department adopts §209.33(h) and (i) with changes at adoption to clarify that the subsections apply to a proposal or decision pending before a potential donor to the board, rather than a proposal or decision pending before the board regarding a potential donor's offer to make a donation or contribution to the board. Adopted new §209.33(h) states that a board member who serves as an officer or director of a potential donor to the board shall not vote on a proposal or decision pending before the potential donor to make a donation or contribution to the board. Adopted new §209.33(i) states that if the department's executive director serves as an officer or director of a potential donor to the board, the executive director shall not vote on a proposal or decision pending before the potential donor to make a donation or contribution to the board. Government Code, §2255.001(b)(3) requires each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency, and the state agency's employees, including service by the state agency's officer or employee as an officer or director of the donor. Adopted new §209.33(h) and (i) help to prevent a conflict of interest regarding a proposed donation or contribution to the board under Transportation Code, §1001.008.

Adopted new §209.33(j) prohibits a board member or a department employee from authorizing a donor to use department property unless the following requirements are met: 1) the board member or the department, as applicable, have statutory authority to do so; 2) the property shall only be used for a state purpose; and 3) the property shall be used in accordance with a contract between the department and the donor that complies with Texas law. Most of these requirements spell out current law; however, Government Code, §2255.001(b)(2) requires each state agency that is authorized by statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the relationship between the donor, the state agency, and the state agency's employees, including the donor's use of the state agency's property.

Only the legislature may grant power to board members and the department regarding the use of the department's property; therefore, a board member or a department employee is prohibited from authorizing a donor to use department property unless there is statutory authority to do so. Also, Government Code, §2203.004 says that state property may only be used for state purposes and that a person may not entrust state property to a person if the property will not be used for state purposes. In addition, if the department is not sufficiently compensated for the use of the department's property, the transaction must comply with Article III, §51 of the Texas Constitution, which prohibits the legislature from granting, or authorizing a state agency to grant, public money to a private individual or entity. Attorneys general have construed Article III, §51 to also apply to the granting of public property to a private individual or entity. See Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 1, MW-373 (1981) at 9. Attorneys general have also stated that Article III, §51 does not prevent the state from making an expenditure of public money or providing public property that benefits a private individual or entity if the following requirements are met: 1) the transaction

serves a legitimate public purpose; and 2) the appropriate governing body places sufficient controls on the transaction to ensure that the public purpose is carried out. *See* Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 2, JC-0244 (2000) at 5, JC-0146 (1999) at 3, MW-373 (1981) at 9. A contract is a general method of placing sufficient controls on the transaction to ensure that the public purpose is carried out.

If the department is sufficiently compensated for the use of the department's property, the transaction is not a gratuity. See Tex. Att'y Gen. Op. No. GA-0894 (2011) at 2. For transparency, adopted new §209.33(j) requires the property to be used in accordance with a contract between the department and the donor that complies with Texas law, even if Article III, §51 of the Texas Constitution does not apply to the transaction.

The department adopts the repeal of prior §209.34 regarding a donation agreement, in conjunction with the adopted amendment to incorporate the language from prior §209.34 into §209.33, with minor amendments, to consolidate the language regarding donations or contributions into one rule.

SUMMARY OF COMMENTS.

The department did not receive any written public comments on the proposed amendments or repeal.

SUBCHAPTER A. COLLECTION OF DEBTS

43 TAC §209.1, §209.2

STATUTORY AUTHORITY. The amendments are adopted under Government Code, §2107.002, which requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation and a reasonable period for collection; Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge a maximum processing fee of $30; Transportation Code, §502.191(e), which authorizes the department to collect a service charge in an amount that is reasonably related to the expense incurred by the department in collecting the original amount of a fee under Transportation Code, Chapter 502 when the payment of the original amount by electronic funds transfer, credit card or debit card is not honored by the funding institution or by the electronic funds transfer, credit card, or debit card company on which the funds were drawn; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapters 403 and 2107; Business and Commerce Code, §3.506; and Transportation Code, §502.191(e) and §1002.001.

§209.1. Collection of Debts.

(a) Purpose. The purpose of this section is to comply with Government Code, §2107.002, which requires a state agency that collects delinquent obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation.

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

(1) Attorney general--The Office of the Attorney General of Texas.

(2) Debtor--Any person liable or potentially liable for an obligation owed to the department or against whom a claim or demand for payment has been made.

(3) Delinquent--Payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed.

(4) Department--The Texas Department of Motor Vehicles.

(5) Obligation--A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(6) Security--Any right to have property owned by a person with an obligation to the department sold or forfeited in satisfaction of the obligation, and any instrument granting a cause of action in favor of the department against a person or a person's property, such as a bond, letter of credit, or other collateral that has been pledged to the department to secure an obligation.

(c) Notification of obligation and demand letters.

(1) The department shall send to the debtor written notice of the obligation, such as an administrative enforcement order that imposes a penalty or fine.

(2) If no satisfactory response is received within 30 days after the date that the notice is sent under paragraph (1) of this subsection, the obligation becomes delinquent on the 31st day after the date that notice is sent, unless the department's notice, the law, or a department rule imposes a different deadline for payment. The department shall send the first demand letter not later than the 30th day after the date on which the obligation becomes delinquent.

(3) If no satisfactory response is received within 30 days after the day on which the first demand letter was sent, the department shall send the final demand letter no later than 60 days after the date on which the first demand letter was sent. The final demand letter shall include a deadline by which the debtor must respond and, if the department determines in accordance with subsection (e) of this section that the obligation shall be referred to the attorney general, a statement that the obligation, if not paid, shall be referred to the attorney general.

(4) Each demand letter must set forth the nature and amount of the obligation owed to the department and must be mailed by first class United States mail, in an envelope that shall bear the notation "Return Service Requested." If an address correction is provided by the United States Postal Service, the department shall resend the demand letter to that address prior to referral to the attorney general.

(d) Records. When practicable, the department shall retain a record of a delinquent obligation. A record shall contain documentation of the following information:

(1) the identity of each debtor;

(2) the correct physical address of the debtor's place of business;

(3) the correct physical address of the debtor's residence, where applicable;

(4) an accurate physical address for the trustee when a fiduciary or trust relationship exists between the department as principal and the debtor as trustee;

(5) a post office box address when it is impractical to obtain a physical address, or when the post office box address is in addition to a correct physical address for the debtor;

(6) attempted contacts with the debtor;

(7) the substance of communications with the debtor;

(8) efforts to locate the debtor and the assets of the debtor;

(9) state warrants that may be issued to the debtor;

(10) current contracts the debtor has with the department;

(11) security interests that the department has against any assets of the debtor;

(12) notices of bankruptcy, proofs of claim, dismissals and discharge orders received from the United States bankruptcy courts regarding the debtor; and

(13) other information relevant to collection of the delinquent obligation.

(e) Referrals of a delinquent obligation to the attorney general.

(1) Prior to referral of a delinquent obligation to the attorney general, the department shall:

(A) verify the debtor's address and telephone number;

(B) send a first and final demand letter to the debtor in accordance with subsection (c) of this section;

(C) verify that the obligation is not considered uncollectible under paragraph (2) of this subsection;

(D) prepare and file a proof of claim in the case of a bankruptcy when appropriate based on advice from the attorney general; and

(E) file a claim in each probate proceeding administering the decedent's estate if the debtor is deceased.

(2) The department shall consider a delinquent obligation uncollectible and shall make no further effort to collect if the obligation is not legally collectible or is uncollectible as a practical matter. Examples of an obligation that is not legally collectible or is uncollectible as a practical matter include an obligation, which:

(A) has been discharged in bankruptcy;

(B) is subject to an applicable limitations provision that would prevent a lawsuit as a matter of law, unless circumstances indicate that the applicable limitations provision has been tolled or is otherwise inapplicable;

(C) is owed by an individual who is located out-of-state, or outside the United States, unless a determination is made that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of department funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified;

(D) is owed by a debtor who is deceased, where each probate proceeding has concluded, and where there are no remaining assets available for distribution; or

(E) is owed by a debtor whose circumstances demonstrate a permanent inability to pay or make payments toward the obligation.

(3) Except as advised otherwise by the attorney general, the department shall not refer a delinquent obligation to the attorney general unless the delinquent obligation exceeds $2,500.

(4) The department shall refer a delinquent obligation to the attorney general for further collection efforts if the department determines, in accordance with this subsection, that the delinquent obligation shall be referred.

(f) Supplemental and alternative collection procedures.

(1) Liens. Where state law allows a state agency to record a lien securing the obligation, the department shall file the lien in the appropriate records of the county where the debtor's principal place of business, or, where appropriate, the debtor's residence, is located or in such county as may be required by law as soon as the obligation becomes delinquent or as soon as is practicable. Unless the delinquent obligation has been paid in full, any lien securing the indebtedness may not be released without the approval of the attorney representing the department after the matter has been referred to the attorney general.

(2) Warrant Holds. The department shall utilize the "warrant hold" procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055, to ensure that no treasury warrants are issued to a debtor and no electronic funds transfers are made to a debtor until the debt is paid, unless an exception applies.

§209.2. Charges for Dishonored Payment Device.

(a) Purpose. Business and Commerce Code, §3.506, authorizes the holder of a dishonored payment device, seeking collection of the face value of the payment device, to charge the drawer or indorser of the payment device a reasonable processing fee, not to exceed $30. This section prescribes policies and procedures for the processing of a dishonored payment device made payable to the department and the collection of fees because of the dishonor of a payment device made payable to the department.

(b) Definitions. The definitions contained in Business and Commerce Code, Chapter 3 govern this section and control to the extent of a conflict with the following definitions in this subsection. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Department--The Texas Department of Motor Vehicles.

(2) Dishonored payment device--A payment device that is drawn or made upon a bank or other financial institution, and that is not honored upon presentment for reasons including, but not limited to, the account upon which the payment device has been drawn or made does not exist, is closed, or does not have sufficient funds or credit for payment of the payment device in full.

(3) Payment device--A check, item, paper or electronic payment, or other device used as a medium for payment.

(c) Processing of a dishonored payment device. Upon receipt of notice from a bank or other financial institution of refusal to honor a payment device made payable to the department, the department shall process the dishonored payment device using the following procedures; however, the department shall not charge a $30 processing fee to the drawer or indorser if the department is prohibited from doing so under Business and Commerce Code, §3.506.

(1) The department shall send a written notice by certified mail, return receipt requested, to the drawer or indorser at the drawer or indorser's address as shown on:

(A) the dishonored payment device;

(B) the records of the bank or other financial institution; or

(C) the records of the department.

(2) The written notice shall notify the drawer or indorser of the dishonored payment device and shall request payment of the face amount of the payment device, any service charge under §209.23 of this title (relating to Methods of Payment), and a $30 processing fee no later than 10 days after the date of receipt of the notice. The written notice shall also contain the statement required by Penal Code, §32.41(c)(3).

(3) The face amount of the payment device, any service charge under §209.23 of this title, and the $30 processing fee must be paid to the department:

(A) with a cashier's check or money order, made payable to the Texas Department of Motor Vehicles; or

(B) with a valid credit card, approved by the department, and issued by a financial institution chartered by a state or the United States, or a nationally recognized credit organization.

(4) Payments made by credit card must include the service charge required by §209.23 of this title.

(5) If payment is not received within 10 days after the date of receipt of the notice, the obligation shall be considered delinquent and shall be processed in accordance with §209.1 of this title (relating to Collection of Debts).

(d) Supplemental collection procedures. In addition to the procedures described in §209.1 of this title, the department may notify appropriate credit bureaus or agencies if the drawer or indorser fails to pay the face amount of a dishonored payment device, any service charge required under §209.23 of this title, and the $30 processing fee. In addition, the department may refer the matter for criminal prosecution.

(e) Any payment to the department from the drawer or indorser of a dishonored payment device shall be applied first to the $30 processing fee, then to any service charge required by §209.23 of this title, and then to the face amount of the dishonored payment device.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER B. PAYMENT OF FEES

43 TAC §209.23

STATUTORY AUTHORITY. The amendments are adopted under Transportation Code, §1001.009, which authorizes the board to adopt rules regarding the method of collection of a fee for any goods sold or services provided by the department, or for the administration of any department program; Transportation Code, §501.176, which authorizes the department to collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card in an amount that does not exceed the amount of the charges incurred by the state to process the payment; Transportation Code, §502.094, which authorizes the department to charge a service charge for a payment by credit card or escrow account for a 72-hour or a 144-hour permit; Transportation Code, §502.191, which authorizes the department to collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment; Transportation Code, §621.356 and §623.076, which authorize the board to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §643.004, which authorizes the department to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §645.002, which authorizes the department to adopt rules regarding the method of payment of a fee required under the unified carrier registration plan and agreement, including rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §646.003, which authorizes the department to adopt rules regarding the method of payment of a fee under Transportation Code, Chapter 646, including rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Transportation Code, §1001.009, which authorizes the board to adopt rules that require the payment of a discount or service charge for a credit card payment in addition to the fee; Government Code, §2054.1115, which authorizes a state agency that uses the state electronic internet portal to use electronic payment methods for point-of-sale transactions (including in-person transactions), telephone transactions, and mail transactions; Government Code, §2054.2591, which authorizes the Texas Department of Information Resources (DIR) to set fees that a state agency may charge for a transaction that uses the state electronic Internet portal project; Transportation Code, §§501.176, 502.191, and 520.003, which authorize the department to collect the fees that DIR sets under Government Code, §2054.2591; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, §§501.176, 502.094, 502.191, 520.003, 621.356, 623.076, 643.004, 645.002, 646.003, 1001.009, and 1002.001; and Government Code, §2054.1115 and §2054.2591.

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SUBCHAPTER C. DONATIONS OR CONTRIBUTIONS

43 TAC §209.33

STATUTORY AUTHORITY. The amendments are adopted under Transportation Code, §1001.008, which authorizes the board

to accept a donation or contribution in any form and to delegate to the executive director the authority to accept a donation or contribution that is under $500 or that is not otherwise required to be acknowledged in an open meeting; Transportation Code, §1005.001, which says the board, the executive director, and each employee of the department is subject to the standards of conduct imposed by Government Code, Chapter 572, and any other law regulating the ethical conduct of state officers and employees; Government Code, Chapter 575, which governs a state agency's acceptance of a gift, which is defined as a donation of money or property that has a value of $500 or more; Government Code, §2255.001, which requires a state agency that is authorized by statute to accept money from a private donor to adopt rules governing the relationship between the donor, the state agency, and the state agency's employees; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, §§1001.008, 1002.001, and 1005.001; and Government Code, Chapters 572, 575, and 2255.

§209.33. Donations or Contributions.

(a) The purpose of this section is to establish the criteria and procedures regarding donations or contributions under Transportation Code, §1001.008 and Government Code, Chapter 575, as well as the standards of conduct governing the relationship between the board, the department's employees, and donors under Government Code, Chapter 2255.

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

(1) Board--The board of the Texas Department of Motor Vehicles.

(2) Department--The Texas Department of Motor Vehicles.

(3) Donation or contribution--Anything of value in any form, including real or personal property, money, materials, or services, given by a donor to the board, as authorized by Transportation Code, §1001.008.

(4) Donor--A person who makes a donation or contribution to the board, as authorized by Transportation Code, §1001.008.

(5) Executive director--The executive director of the Texas Department of Motor Vehicles.

(c) The executive director may accept a donation or contribution valued under $500.

(d) Board acceptance of a donation or contribution shall be made in an open meeting. The records of the meeting shall identify the name of the donor and describe the donation or contribution and its purpose.

(e) If a donor specifies the purpose of the donation or contribution, the department shall use the donation or contribution for that purpose to the extent the specified purpose complies with Transportation Code, §1001.008.

(f) The department may document terms and conditions relating to a donation or contribution through a donation or contribution agreement with the donor.

(g) Pursuant to Transportation Code, §1005.001 and Government Code, §2255.001, board members and department employees shall comply with the standard of conduct imposed by Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and employees when interacting with a donor or potential donor.

(h) A board member who serves as an officer or director of a potential donor to the board shall not vote on a proposal or decision pending before the potential donor to make a donation or contribution to the board.

(i) If the department's executive director serves as an officer or director of a potential donor to the board, the executive director shall not vote on a proposal or decision pending before the potential donor to make a donation or contribution to the board.

(j) A board member or a department employee shall not authorize a donor to use department property unless the following requirements are met:

(1) the board member or the department, as applicable, must have statutory authority to do so;

(2) the property shall only be used for a state purpose; and

(3) the property shall be used in accordance with a contract between the department and the donor that complies with Texas law.

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

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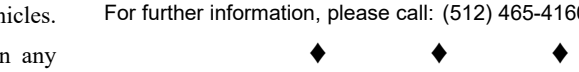

SUBCHAPTER C. DONATIONS OR CONTRIBUTIONS

43 TAC §209.34

STATUTORY AUTHORITY. The repeal is adopted under Transportation Code, §1001.008, which authorizes the board to accept a donation or contribution in any form and to delegate to the executive director the authority to accept a donation or contribution that is under $500 or that is not otherwise required to be acknowledged in an open meeting; Government Code, §2255.001, which requires a state agency that is authorized by statute to accept money from a private donor to adopt rules governing the relationship between the donor, the state agency, and the state agency's employees; Transportation Code, §1002.001, which provides the board with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted repeal implements Transportation Code, §1001.008 and §1002.001; and Government Code, Chapter 2255.

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CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §215.1 and §215.2; adopts amendments to Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters, 43 TAC §§215.101, 215.120, and 215.121; adopts amendments to Subchapter D. General Distinguishing Numbers and In-Transit Licenses, §§215.131 - 215.133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150, 215.152, 215.155 - 215.158, and 215.160; adopts new §§215.151, 215.154, and 215.162; adopts repeals of §§215.151, 215.153, 215.154 and 215.159; and adopts amendments to Subchapter E, Lessors and Lease Facilitators, §215.178. These amendments, new sections, and repeals are necessary to implement House Bill (HB) 718 and Senate Bill (SB) 224, enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and to set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold to a Texas resident, a Texas dealer shall assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to another Texas buyer. Adopted amendments implementing Occupations Code, Chapters 1956 and 2305, as amended by SB 224, require certain license holders under Occupations Code, Chapter 2301, and an owner of a garage or repair shop to keep records regarding catalytic converters and make those records available for inspection by the department.

One new adopted section, §215.162, implements the catalytic converter recordkeeping and inspection requirements for dealers in SB 224, which became effective on May 29, 2023. A new proposed section, §215.122, which would have clarified SB 244 requirements for manufacturers, distributors, and converters was not adopted.

Repeals of §215.151 and §215.154 are adopted to implement HB 718 and new replacement rules are being adopted for each of these two sections. Repeals of §215.153 and §215.159 are also adopted to implement HB 718 as §215.153 contains the specifications for all temporary tags, and §215.159 contains the requirements for temporary tags issued and displayed by a converter. Neither of these rules are necessary beginning July 1, 2025, when temporary tags will no longer exist.

In 2019, the Sunset Commission recommended the board establish advisory committees and adopt rules regarding standard advisory committee structure and operating criteria. The board adopted rules in 2019, and advisory committees have since provided valuable input on rule proposals considered by the board for proposal or adoption. In February and March 2024, the department provided an early draft of rule changes implementing HB 718 to three department advisory committees, the Vehicle Titles and Registration Advisory Committee (VTRAC), the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC), and the Customer Service and Protection Advisory Committee (CSPAC). Committee members voted on formal motions and provided informal comments on other provisions. The department incorporated input from all three committees and the Tax Assessor-Collector Association (TACA) in adopted §§215.2, 215.138, 215.140, 215.150 - 215.152, 215.155 - 215.158, and 215.178. Additionally, stakeholders, including the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Texas Recreational Vehicle Association (TRVA), provided feedback and input on one or more rule proposals. The department also considered all written comments received during the public comment period for these proposals.

Adopted nonsubstantive amendments are necessary to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to modify language to be consistent with current practice including use of records or electronic systems; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, references or other language; to clarify existing requirements; or to modernize language and improve readability.

The effective date for these rules is July 1, 2025, unless otherwise designated. The following amended sections are adopted without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5030) and will not be republished: §§215.1, 215.2, 215.101, 215.121, 215.131, 215.132, 215.144, 215.147, 215.148, 215.154, 215.160, 215.162, and 215.178.

The following sections are adopted with changes at adoption to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5030) and will be republished: §§215.120, 215.133, 215.138, 215.140, 215.141, 215.143, 215.150 - 215.152, and 215.155 - 215.158. The following sections are adopted with substantive changes to the proposed text: §§215.120, 215.133, 215.138, 215.140, 215.143, 215.151, 215.152, 215.156, and 215.158. Each substantive change is described in the Explanation of Adopted Amendments, Repeals, and New Sections below and some of these changes are also referenced in the department's response to comments. The following sections are adopted with nonsubstantive changes to the proposed text: §§215.141, 215.150 - 215.152, and 215.155

- 215.158. Each nonsubstantive change is described in the Explanation of Adopted Amendments, Repeals, and New Sections below.

EXPLANATION OF ADOPTED AMENDMENTS, REPEALS, AND NEW SECTIONS.

Subchapter A. General Provisions.

Adopted amendments to §215.1 add references to Occupations Code, Chapter 2305, and Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include these statutes. Occupations Code, Chapter 2305 implements SB 224; Transportation Code, Chapter 504, which regulates the transfer and removal of license plates, implements HB 718; and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718.

Adopted amendments to §215.2(a) add statutory references to definitions in Occupations Code, Chapter 2305, and Transportation Code, Chapter 520 to reflect the change in the scope of the chapter. An adopted amendment in §215.2(b)(4) adds a definition for "employee" and defines the term as a natural person employed directly by a license holder for wages or a salary and eliminates contractors from being considered employees under Chapter 215. Adopted amendments renumber the remaining definitions in this subsection. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters.

Adopted amendments to §215.101 add references to Occupations Code, Chapter 2305, and Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include these statutes. Occupations Code, Chapter 2305 implements SB 224. Transportation Code, Chapter 504 regulates the transfer and removal of license plates, and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

A proposed amendment to §215.102(e)(1)(K)(iv) to require an applicant for a manufacturer's, distributor's, or converter's license to inform the department whether the applicant repairs a motor vehicle with a catalytic converter in Texas and, if so, the physical address at which the applicant performs this repair was not adopted.

Adopted amendments to §215.120(d) require a manufacturer, distributor, or converter to maintain a record of the license plates assigned for its use in either the license holder's recordkeeping system or a designated electronic system that the department uses to manage these industry license plates. At adoption the phrase "either in the license holder's recordkeeping system or" was added to provide operational flexibility. Today the department's electronic licensing system, eLICENSING, houses certain data for these license plates. During the next several months, the department will be developing a new license plate system, and these license holders may need flexibility to track industry license plates either in their own recordkeeping system or in a system designated by the department. An adopted amendment to §215.120(e) adds a reference to a department designated system for consistency. A proposed amendment to §215.120(f) to encourage license holders to immediately report all stolen license plates to local law enforcement was not adopted. An adopted amendment to §215.120(g) repeals the current text as these license holders will not necessarily be required to keep local records because records will be able to be entered into a department-designated system, and the remaining subsections are re-lettered accordingly. In response to a public comment, an amendment was added at adoption to re-lettered §215.120(g) to clarify that the department will use the same criteria to evaluate a request for additional standard license plates received from any license holder eligible for standard license plates, including eligible franchised and other GDN holders, to enable fair and consistent department review and decisions regarding issuance of additional standard dealer plates.

Adopted amendments to §215.121 add sanctions for a license holder who fails to report a lost, stolen, or damaged license plate to the department and who fails to keep or maintain records related to catalytic converters. An adopted amendment to §215.121(b)(7) adds the phrase "or fails to report a lost, stolen, or damaged license plate" to inform a license holder that a sanction may apply for failure to make such a report within the timeframe required by rule. This sanction is necessary as failure to report such a plate prevents this information from being promptly transmitted to law enforcement and risks public harm. An adopted amendment to §215.121(b)(18) adds a sanction for a license holder who fails to maintain the catalytic converter records required under Occupations Code, Chapter 2305, Subchapter D. This sanction is important as a license holder's failure to keep catalytic converter records will impede law enforcement from investigating related criminal activity, which can harm Texas citizens. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

Proposed new §215.122 implementing SB 224 for manufacturers, distributors, and converters was not adopted.

Subchapter D. General Distinguishing Numbers and In-Transit Licenses.

Adopted amendments to §215.131 add references to Transportation Code, Chapters 504 and 520, and Occupations Code, Chapter 2305, as the scope of the rules in this subchapter changed to include these statutes. SB 224 amended Occupations Code, Chapter 2305 to give the department authority to inspect license holders' catalytic converter records, and Transportation Code, Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

Adopted amendments to §215.132 define certain terms used in the section: "buyer's license plate," "buyer's temporary license plate," and "dealer's temporary license plate." Adopted amendments also delete the definition of temporary tag. "Buyer's license plate" is adopted to be defined as a general issue plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. This term is also adopted to be defined to include a buyer's provisional license plate, which is a short-term use license plate that a dealer may issue if the dealer

does not have the applicable license plate available for the type of vehicle the buyer is purchasing. A "buyer's temporary license plate" is adopted to be defined as a temporary license plate to be issued by a dealer to a non-resident vehicle buyer whose vehicle will be titled and registered out-of-state in accordance with Transportation Code, §503.063(i). A "dealer's temporary license plate" is defined as a license plate that a dealer who holds a general distinguishing number (GDN) may purchase and use for the purposes allowed under Transportation Code, §502.062. Adopted amendments to these definitions implement HB 718, which eliminates temporary paper tags and requires the department to create new categories of license plates that will be affixed to a vehicle upon purchase. Some of the remaining definitions are adopted to be re-lettered to allow for the addition and deletion of definitions.

Adopted amendments to §215.133(c)(1)(I) add a reference to the "license plate system" to implement HB 718, which eliminates temporary paper tags and becomes effective on July 1, 2025. Additionally, an adopted amendment to §215.133 adds new §215.133(c)(1)(P) to require GDN applicants to disclose whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed. This adopted amendment will allow the department to obtain the information necessary to carry out its responsibilities under SB 224 to identify license holders that repair motor vehicles with catalytic converters and inspect related records. To allow for the additional requirement, the following subsection is re-lettered accordingly. In response to public comment, a proposed amendment to §215.133(c)(2)(J) to require applicants to complete webDEALER training as part of the application process was deleted at adoption as dealer access requirements for this system are proposed for adoption in §217.74 of this title. Adopted amendments to §215.133(c)(3)(B) add "dealer" and "temporary license" before the word "plate" to be consistent with the amended definitions in §215.132, and to implement HB 718 when it becomes effective on July 1, 2025. The effective date for this section is the first day of a calendar month following a period of 20 days after the adoption is filed with the Texas Secretary of State.

Adopted amendments to §215.138 add certain dealer's plates to those subject to the requirements of the chapter, clarify certain exceptions to the license plate requirements, and add record keeping and reporting requirements to prevent fraud and theft. Adopted amendments to §215.138 add personalized prestige and temporary license plates to the types of license plates to which the requirements of the section apply. These types of license plates are adopted to be added in §215.138(a), (b), (c), (f), and (j) to implement HB 718. This section lists the requirements for dealer's license plates. Referencing these additional types of plates in each subsection ensures these requirements are inclusive of all the types of dealer's plates that may be used by a dealer. Adopted amendments to §215.138(c) add golf carts and off-highway vehicles to §215.138(c)(3) and (4), as described by Transportation Code Chapters 551 and 551A, respectively, to ensure that §215.138(c) incorporates all the types of vehicles that dealer's plates may not be displayed on, including those with statutory exceptions, for clarity and ease of reference. Adopted amendments to §215.138(h) add the requirement that a dealer maintains records of each dealer's plate in the department's designated electronic license plate system rather than in the dealer's records. This adopted amendment allows the department to prevent fraud and allows law enforcement access to these records. Additionally, in §215.138(h)(4), which describes information that must be entered into the system, adopted language requires a dealer to enter the name of the person in control of the vehicle or license plate. This adopted change makes it easier for the department and law enforcement to identify and investigate fraud and other illegal activity, while allowing dealers flexibility to assign a license plate to a vehicle or a driver. At adoption, amendments to §215.138(i) deleted paragraph (1) in conformity with the proposed deletion of §215.138(k) because a dealer is no longer required to keep a local license plate record as the dealer will be required to maintain that information in the department's designated electronic system instead. The following two subparagraphs of §215.138(i) are renumbered accordingly. A proposed amendment to §215.138(j) to encourage a dealer to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency was not adopted. An adopted amendment strikes §215.138(k), which previously required a dealer's license plate record to be available for inspection by the department. This adopted subsection is no longer necessary as dealers will be entering these records into the department's designated electronic license plate system. An adopted amendment re-letters (l) to (k) for continuity. An adopted amendment to §215.138(l) clarifies that a wholesale motor vehicle auction GDN holder that also holds a dealer's GDN may display a dealer's temporary license plate assigned to their dealer GDN on a vehicle that is being transported to or from the licensed auction location. This adopted language clarifies that persons who hold both types of GDNs may use a dealer's temporary license plate to legally transport vehicles between their businesses. In response to public comment, at adoption, §215.138(m) was added to clarify that recordkeeping requirements in subsection (d) do not apply to a vehicle that is being operated solely for the purposes of demonstration, which is commonly referred to as a test drive.

Adopted amendments to §215.140 add requirements regarding delivery of buyer's license plates and storage of those license plates. HB 718 eliminated temporary tags and created a need for buyer's plates to be delivered to dealers so that dealers may issue license plates to buyers upon vehicle purchase. This statutory change requires dealers to properly receive, secure, and store license plates to prevent fraud, plate theft, and related criminal activity. An adopted amendment to §215.140(a)(5)(F) adds buyer's plates to the types of license plates that will not be mailed to an out-of-state address, but that will only be delivered or mailed to a dealer's physical location in Texas. These adopted amendments are necessary to responsibly implement HB 718, which eliminates temporary tags and creates a need for buyer's plates to be delivered to dealers so that they may issue them to buyers upon vehicle purchase. Another adopted amendment to §215.140 adds §215.140(a)(6)(E), which requires a dealer to store all license plates in a dealer's possession in a locked or otherwise secured room or closet or in at least one securely locked and substantially constructed safe or steel cabinet bolted or affixed to the floor in such a way that it cannot be readily removed, to deter theft or fraudulent misuse of license plates. A proposed amendment to §215.140(b)(5) adding subparagraph (E), was intended to create a similar requirement for a wholesale motor vehicle auction GDN holder to securely store license plates removed from vehicles sold at auction to out-of-state buyers or for export. However, this proposed amendment was deleted at adoption in response to a public comment because a rule addressing license plate security at wholesale motor vehicle auctions requires further stakeholder input and department consideration. Further rulemaking on this issue will be proposed at a future board meeting.

In response to public comment, at adoption, the phrases "or set of plates," "or set of license plates," "or sets of license plates," and "sets of plates" were deleted in §§215.141, 215.150 - 215.152, and 215.155 - 215.158, to improve consistency and readability. The definition of buyer's license plate in §215.132(2) defines the term as including a set of plates so the phrase does not need to be repeated.

Adopted amendments to §215.141 remove references to temporary tags and add sanctions that the department may assess if a license holder fails to comply with new license plate requirements or catalytic converter record requirements. These adopted changes are necessary to enforce the provisions of HB 718 and SB 224. An adopted amendment to §215.141(b)(10) adds references to buyer's "license plate or buyer's temporary license plate" to reflect the new plate types that the department has developed to implement HB 718, which will become effective July 1, 2025. Adopted amendments to §215.141(b)(12) and (13) add an expiration date for temporary tags of July 1, 2025, to implement HB 718. An adopted amendment to §215.141(b)(25) updates the title of a referenced rule to reflect the adopted new title for that rule. Adopted new §215.141(b)(26) authorizes sanctions should a license holder fail to securely store a license plate. Adopted new §215.141(b)(27) authorizes sanctions should a license holder fail to maintain a record of dealer license plates as required under §215.138. Adopted new §215.141(b)(28) authorizes sanctions should a license holder fail to file or enter a vehicle transfer notice. Adopted new §215.141(b)(29) authorizes sanctions should a license holder fail to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time prescribed by rule. Adopted new §215.141(b)(34) authorizes sanctions should a license holder fail to remove a license plate or set of license plates from a vehicle sold to an out-of-state buyer or from a vehicle sold for export. The adopted amendments for §215.141(b)(26)-(29) and (34) make the requirements of HB 718 enforceable by the department when HB 718 becomes effective on July 1, 2025. Adopted new §215.141(b)(35) authorizes sanctions should a license holder fail to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department both of which are required by SB 224. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

An adopted amendment to §215.143(c) streamlines license plate recordkeeping for in-transit license plates by requiring a drive-a-way operator to maintain required license plate data in the department-designated system instead of in a local record. Additionally, in §215.143(c)(4), an adopted amendment changes the requirement that the record contain the name of the person in control of the vehicle to the name of the person in control of the license plate. This adopted amendment allows a drive-a-way operator to designate in the license plate system which employee is currently responsible for an in-transit plate, which will inform the department or law enforcement in case of a complaint. An adopted amendment in §215.143(d)(1) strikes "operator's plate record" and replaces it with "department-designated system" for consistency. A proposed amendment to §215.143(e) to add language encouraging a drive-a-way operator to immediately alert law enforcement by reporting a stolen license plate was not adopted. An adopted amendment strikes §215.143(f), which required that a drive-a-way operator's license plate record be available for inspection, as this is no longer necessary because these license holders will be required to enter that information into the department's designated system. The remaining sections are re-lettered for continuity.

Adopted amendments to §215.144 replace references to the electronic title system in subsection §215.144(e)(8) and (9) with references to webDEALER as defined in §217.71 to clarify the system to be used. An adopted amendment to §215.144(e)(9) deletes an inadvertent use of "new" to describe a motor vehicle as the paragraph covers both new and used motor vehicles and adds "properly stamped" which was inadvertently deleted in the June 1, 2024, amendment to this rule upon publication. Adopted amendments to §215.144(f)(3) add a reference to title to clarify that the reasonable time periods apply to both filing of a title and registration, simplify language to improve readability, and add a new subparagraph (C) regarding timeliness for filing a title or registration for certain military personnel in compliance with Transportation Code, §501.145(c). An adopted amendment to §215.144(i)(2)(C) changes the requirement to make title application on public motor vehicle auctions from 20 working days of sale to a reasonable time as defined in §215.144(f) for consistency. Adopted amendments to §215.144(l) add punctuation and create two new subsections. The first subsection is retitled "webDEALER" and incorporates existing language regarding the department's web-based title application. The adopted new subsection is titled "License Plate System." This section requires a license holder to comply with §215.151, which contains general requirements for the issuance of license plates by dealers and is an important reference for dealers.

Adopted amendments to §215.147(d) add a requirement that a dealer remove, void, and destroy or recycle any license plate or registration insignia as required under §215.158 before transferring ownership of a vehicle to be exported, and strike paragraphs (1)-(3) relating to temporary tags. These amendments are necessary to implement HB 718 and to prevent theft and fraud of these plates which are no longer assigned to a vehicle registered in Texas.

An adopted amendment to §215.148 makes a non-substantive change to delete a repetitive phrase and parenthetical in §215.148(c). The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

In response to public comment, at adoption, the phrase "general issue" was either deleted or changed to "buyer's" throughout §§215.150 - 215.152, 215.155, 215.157, and 215.158 for consistency in terminology. The definition of "buyer's license plate" in §215.132(2) defines the plate as a general issue plate so that phrase does not need to be repeated.

An adopted amendment to §215.150 changes the name of the section to strike "Temporary Tags" and replace that phrase with "License Plates" to implement HB 718, which eliminated temporary tags. An adopted amendment to §215.150(a) requires a dealer to issue a buyer's license plate for a vehicle type the dealer is authorized to sell to (1) a buyer of a new vehicle, unless the buyer has an authorized plate which may be assigned to the vehicle, and (2) a buyer of a used vehicle, if a buyer's license plate did not come with the vehicle and if the buyer does not have authorized plates that can be assigned to the vehicle. The adopted amendments to §215.150 recognize that under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the department's database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025. Other adopted amendments throughout this section im-

plement HB 718 by striking all language referencing temporary tags.

Adopted new §215.150(b) adds an exception to the requirements in §215.150(a) for vehicles sold to commercial fleet buyers authorized by a county tax assessor-collector as a dealer deputy under §217.166 because these commercial fleet buyers are authorized as dealer deputies to assign license plates to vehicles purchased from a dealer. Adopted new §215.150(c) requires a dealer to issue a buyer's temporary license plate to an out-of-state buyer for a vehicle to be registered in another state.

Adopted amendments to relettered §215.150(d) replace "license holder" with "dealer" for consistency in terminology. Another amendment to relettered §215.150(d) removes a list of the types of temporary tags and substitutes a citation to license plates under Transportation Code, §503.063, which was amended by HB 718 to replace temporary tags with license plates. Additionally, adopted amendments to relettered §215.150(d) replace references to the temporary tag database with references to the license plate system and update associated statutory and rule references to implement HB 718.

Adopted amendments to prior §215.150(c) re-letter it to §215.150(e), delete "federal, state, or local" to describe a governmental agency as this descriptor is unnecessary, clarify that a governmental agency may issue either a buyer's license plate or a buyer's temporary license plate unless the buyer has a qualifying license plate to place on the vehicle, remove references to buyer's temporary tags and internet-down tags, and update Transportation Code and rule citations.

Adopted amendments to prior §215.150(d) re-letter it to §215.150(f), strike the term "converter," and strike references to the temporary tag database, replacing those references with "license plate system" to implement HB 718. Additionally, an adopted amendment to re-lettered §215.150(f)(4) deletes prior language and replaces it with a requirement for a dealer to secure all license plates, including license plates assigned to vehicles in inventory, dealer's license plates, and unissued buyer's license plates in a locked and secured room or closet or in one or more securely locked, substantially constructed safes or steel cabinets bolted or affixed to the floor or wall. An adopted amendment also requires dealers to properly mark and destroy, recycle, or return all void license plates as required under §215.158. These amendments are necessary to responsibly implement license plate management required under HB 718 and to deter license plate theft and fraud.

Prior §215.151 is adopted for repeal as this section describes how to use and affix temporary tags, which HB 718 has eliminated. Adopted new §215.151, titled "License Plate General Use Requirements," implements HB 718, which requires the department set rules for affixing license plates to vehicles. Adopted new §215.151 maintains consistency with how plates are currently affixed under §217.27. Adopted new §215.151(a) sets out the requirements for securing a license plate to a vehicle for a Texas buyer, in accordance with §217.27. Adopted new §215.151(b) requires a dealer to issue a buyer's temporary license plate and secure this license plate to the vehicle for a vehicle purchased by a non-resident buyer who intends to title and register the vehicle under the laws of the home state. Adopted new §215.151(c) requires a dealer to remove and destroy a plate on a used vehicle if the buyer has a specialty, personalized or other qualifying plate to put on the vehicle. Adopted new §215.151(d) specifies a dealer's responsibilities to remove and store a buyer's license plate when the dealer purchases a vehicle with an assigned license plate, and the dealer's responsibilities upon vehicle sale to update the license plate database and provide, securely transfer, or destroy or recycle the assigned license plate depending on the type of purchaser. In response to a public comment, at adoption, an amendment to §215.151(d) corrects the citation to §215.150 to reference subsection (f), rather than subsection (d). In response to public comment, at adoption, amendments to §215.151(d) split the first sentence into two sentences to improve readability by separating the dealer's responsibilities upon purchase of a vehicle from the dealer's responsibilities when the vehicle is sold. Sentence punctuation was added as was the introductory phrase: "Upon vehicle sale, the dealer must update the license plate database and:" to clarify that a dealer is required to update the license plate system for any type of vehicle sale not just sales to out-of-state dealers or for export. In response to public comment, at adoption, the separate duties of dealers to retail buyers and dealer buyers were split out and clarified: "Texas buyer" in §215.151(d)(1) was specified to be a "Texas retail buyer," and new §215.151(d)(2) was added to address a vehicle sale to a Texas dealer requiring the selling dealer to securely transfer the license plate to the purchasing dealer. Also at adoption, proposed §215.151(d)(2) was renumbered to §215.151(d)(3) and the requirement to update the license plate database was deleted as that language was moved to the second sentence in §215.151(d). These adopted revisions are necessary to implement HB 718 and further clarify dealer responsibilities. At adoption, the department also corrected an error in new §215.151(d)(3) by changing the word "the" to "this" before the word "title."

Adopted amendments to new §215.152 replace all references to temporary tags with references to dealer-issued buyer's license plates to implement HB 718, which eliminated temporary tags and the temporary tag database and requires a dealer to issue or reassign a license plate to most vehicle buyers. Adopted amendments to §215.152(a) strike the terms "converter" and "temporary tag database" and replace those terms with "webDEALER" and "the license plate system," and add language requiring a dealer to be responsible for verifying receipt of license plates in the license plate system. These adopted amendments recognize that under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025.

At adoption, the department amends §215.152(b) to update the cross-reference with the adopted new title of §215.157, "Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available." Adopted amendments to §215.152(b) also replace prior language by substituting requirements for a dealer to enter information in the license plate system, including information about the vehicle, the buyer, and the license plate number assigned.

Adopted amendments to §215.152(c) require the department to inform each dealer of the annual maximum number of buyer's license plates the dealer is authorized to obtain, substitute "obtain" for "issue," and add a reference to Transportation Code, §503.063. Additional adopted amendments to §215.152(c) add language to describe the two types of buyer's license plate allotments that a dealer is eligible to obtain from the department, which are: (1) an allotment of unassigned buyer's license plates for vehicles to be titled and registered in Texas, and (2) a sep-

arate allotment of buyer's temporary license plates for non-resident buyers. This distinction reflects the new license plate types the department has developed to implement HB 718.

Adopted amendments to §215.152(d)(1) provide that a dealer's allotment will be based on vehicle title transfers, sales, or license plate issuance data as determined from the department's systems from the previous fiscal year, as well as previously used multipliers based on time in operation or actual in-state and out-of-state sales transactions. Adopted amendments to these previously existing factors in §215.152(d)(3)(A) and (B) replace the "number of dealer's temporary tags issued" with the "number of transactions processed through the department." Adopted amendments to §215.152(d)(4) strike temporary tags and add the word "annual" to be clear that the allotment of license plates is on an annual basis.

An adopted amendment strikes as unnecessary current §215.152(e), which relates to allocating temporary tags for converters because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718. The remaining subsections of §215.152 are adopted to be re-lettered accordingly.

Adopted amendments to current §215.152(f), adopted to be re-lettered as §215.152(e), strike references to "converter," and replace references to temporary tags with references to general issue and buyer's temporary license plates. Additionally, adopted amendments to relettered §215.152(e)(1) provide that a new franchised dealer may be issued 200 general issue license plates and 100 buyer's temporary plates annually, and provide that the franchised dealer may request more license plates based on credible information indicating a higher quantity is warranted. These adopted plate allocations are based on historical data for newly licensed franchised dealers. Adopted amendments strike relettered §215.152(e)(1)(A) and (B) because they relate only to temporary tags. Adopted amendments to relettered §215.152(e)(2) provide the annual allocation of license plates for new non-franchised dealers as 100 general issue license plates and 48 buyer's temporary license plates. These adopted plate allocations are based on historical data for newly licensed non-franchised dealers. Another adopted amendment to relettered §215.152(e) strikes §215.152(e)(3), because it relates only to the converter's temporary tag allocation. Under Transportation Code, Chapter 503 as amended by HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025.

Adopted amendments to relettered §215.152(f) and (g) replace references to temporary tags with references to license plates throughout, changes "license" to "GDN" and "dealership" to "dealer" for consistency in terminology, and update subsection designations based on adopted amendments.

New adopted §215.152(h) states that the plates will be distributed on a quarterly basis, so that dealers will have enough inventory on hand to conduct business but will not have to store the entirety of the annual plate allotment at once, and clarifies that a dealer's remaining unissued plates at the end of the allocation period will count towards the dealer's next allocation. At adoption, a clause was added to the end of the first sentence of new §215.152(h) to allow for a twice-yearly allocation to a dealer that sells only special interest vehicles or antique vehicles as defined in Transportation Code, §683.077(b). For consistency with this new language, the term "quarterly" was deleted at adoption from the second sentence of new §215.152(h) describing allocations and allocation periods. A dealer who sells only these types of vehicles requested this change at adoption because a quarterly allocation would not work with that dealer's business model, which is to sell large quantities of these vehicles through auctions held only twice per year.

New adopted §215.152(i) explains when a dealer may submit a request for additional plates to ensure that dealers are able to order more plates well in advance of needing them and paralleling the current requirements for temporary tag requests in prior §215.152(i). The adopted amendments delete prior language that is no longer applicable under HB 718. New adopted §215.152(j) requires a dealer to submit a request in the license plate system. New adopted §215.152(k) explains the process by which a dealer must submit the request for additional plates and the information that is required from the dealer, modifying language currently in §215.152(i) with the terms and statutory citations changed for consistency with HB 718 implementation. Adopted amendments to the language in §215.152(i), incorporated into new §215.152(k)(3), change the division within the department where appeals will be reviewed from the Motor Vehicle Division to the Vehicle Titles and Registration Division to be consistent with current agency operations. Other adopted amendments re-letter prior §215.152(j) and (k), delete references to converters and temporary tags because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718, add references to license plate system activity, and update statutory references. At adoption, §215.152(k) was renumbered. An adopted amendment strikes §215.152(l), as this subsection, prohibiting rollover of temporary tag allotments from one calendar year to the next, is no longer necessary. Each of these adopted amendments is necessary to implement HB 718.

Section 215.153 is adopted for repeal as part of HB 718 implementation because it only sets out the specifications for the design of temporary tags and is therefore no longer necessary. Similarly, §215.154 is adopted for repeal because it only describes how dealer's temporary tags are to be used, and these temporary tags will no longer exist following the implementation of HB 718.

Adopted new §215.154 implements HB 718 by addressing the allocation of a new license plate type created by HB 718, a dealer's temporary license plate. Adopted new §215.154(a) bases the number of dealer's temporary license plates a dealer may order on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year, to deter theft and fraudulent misuse of temporary plates by limiting supply. Adopted new §215.154(b) gives the maximum number of dealer's temporary license plates issued to new license applicants during the applicants' first license term in a graphic table. Adopted new §215.154(c) provides all dealers licensed on July 1, 2025, with the opportunity to obtain the number of dealer's temporary plates that a new dealer of the same license type is eligible for on that date as defined in §215.154(b), and an additional number based on dealer sales in the previous year as defined in §215.154(e). This new adopted subsection helps to ensure that existing dealers have access to enough dealer's temporary plates during the transition from using agent and vehicle temporary tags to using dealer's temporary plates. Adopted new §215.154(d) lists the exceptions for which a dealer will not be subject to the initial allotment so that certain dealers who previously qualified for more license plates may continue using their current allocation. Adopted new §215.154(e) allows a dealer to obtain more than the maximum initial allotment limits for dealer's temporary plates by providing sales numbers from the prior year

that justify an increased allocation, to allow for flexibility and business continuity for those dealers who have a documented need for additional plates. Similarly, adopted new §215.154(f) allows wholesale motor vehicle dealers to obtain more than the maximum initial allotment of dealer's temporary plates by providing the department with the numbers of vehicles purchased over the past 12 months to predict a dealer's need for additional license plates, to ensure that a wholesaler has sufficient temporary plates to meet documented demand. Adopted new §215.154(g) allows the department to waive maximum issuance restrictions if the waiver is essential for the continuity of business if the dealer provides the department with sales data and reason for the waiver request to allow the department flexibility to meet the demonstrated business needs of its license holders with appropriate allocations on a case-by-case basis. Adopted new §215.154 will thus implement HB 718 with an allocation system for dealer temporary license plates that balances the need to limit allocations to avoid excess inventory creating an increased risk of license plate fraud or theft with the need to provide license holders with enough dealer temporary license plates to meet business needs.

Adopted amendments to §215.155 replace all references to buyer's temporary tags with references to buyer's license plates or buyer's temporary license plates to implement HB 718, which eliminated temporary tags in favor of license plates. An adopted amendment to §215.155(c) requires that a dealer may not issue a buyer's license plate for a wholesale transaction; rather, the purchaser must use its own dealer's plate to display on a purchased vehicle. If a general issue plate or set of plates is already assigned to the vehicle, the selling dealer must provide the general issue plates to the purchasing dealer. This adopted amendment is to ensure that an assigned license plate stays with the vehicle to which the license plate was originally assigned, consistent with the requirement in Transportation Code, §504.901(b). The adopted amendments to §215.155 include striking §215.155(e) as unnecessary because it only addresses requirements for temporary tags, which HB 718 has eliminated. The remaining subsections of §215.155 are re-lettered accordingly. Adopted amendments to prior §215.155(f) strike the current temporary tag fee and prescribe a new $10 fee for buyer's plates. Adopted amendments to prior §215.155(f) similarly strike the prior temporary tag fee that governmental agencies may charge and prescribe a new $10 fee that governmental agencies may charge for buyer's plates. HB 718 amended Transportation Code, §503.063(g) to eliminate the temporary tag fee and to require the department to prescribe a fee to be charged by the dealer to the buyer for license plates that are issued or assigned to the buyer upon vehicle purchase. The department has determined that a $10 fee will be sufficient to cover the expected costs associated with registering and processing the new license plates required by HB 718. Additionally, an adopted amendment to prior §215.155(f)(1) replaces "electronic title system" with "designated electronic system" to better reflect current department procedure.

Adopted amendments to §215.156 replace all references to temporary tags with references to buyer's license plates to implement HB 718, which eliminated temporary tags in favor of license plates. The purpose of §215.156 is to describe the requirements for a dealer to provide a vehicle buyer with a buyer's receipt. Adopted amendments requiring a dealer to print a receipt from the department's designated electronic system reflect that HB 718 will require dealers to print a buyer's receipt from a different electronic system. The adopted amendments to §215.156 delete unnecessary language describing the process for printing temporary tag receipts, since HB 718 abolished temporary tags. Adopted amendments also remove references to metal plates in favor of "vehicle registration insignia" to reflect new processes and standardize terminology across the department's rule chapters. Additionally, adopted new §215.156(7) requires the receipt to include the procedure by which the vehicle registration insignia will be provided to the buyer, as is required under Transportation Code, §503.0631(d-1), as amended by HB 718. The adopted amendments to §215.156 also delete unnecessary language and punctuation. In response to public comment, at adoption, clarifying amendments to §215.156 added the phrase "or buyer's temporary license plate" to clarify that a dealer must issue a buyer's license plate receipt to every purchaser of a vehicle in Texas even if the vehicle is to be registered out-of-state, and added the phrase "if the vehicle is to be registered in Texas" to clarify that the requirement to include the procedure by which the vehicle's registration insignia will be provided only applies to vehicles to be registered in Texas. These amendments help clarify which buyer's license plate receipt requirements apply to a particular type of vehicle sale.

Adopted amendments to §215.157 implement HB 718 by describing the process for a dealer to issue a license plate and a license plate receipt when internet access is not available by replacing the prior requirement for a dealer to print out an internet-down tag with a requirement for a dealer to document the issuance of a buyer's general issue license plate and then enter that information in the license plate system not later than the close of the next business day. These adopted amendments are necessary to implement HB 718 and maintain the integrity of the data in the license plate database.

Adopted amendments to §215.158 describe the general requirements for buyer's license plates necessary to implement HB 718. Adopted amendments to the title of §215.158 add "for Buyer's License Plates" and delete an unnecessary reference to "Preprinted Internet-down Temporary Tag Numbers." Adopted amendments to §215.158 delete language related to internet-down temporary tags, which are obsolete since HB 718 eliminated temporary tags, and replace it with language about license plates. Adopted amendments to §215.158(a) also make nonsubstantive wording and punctuation changes and delete an unnecessary descriptive phrase for a governmental agency to improve readability and retain the dealer and governmental agency's responsibility for safekeeping of license plates and for prompt reporting of license plates that are lost, stolen, or destroyed. A proposed amendment to §215.158(a) to encourage a dealer or governmental agency to immediately report all stolen license plates to local law enforcement was not adopted. In response to public comment, an amendment added at adoption to §215.158(a) adds the phrase "or buyer's temporary license plate" to clarify that a dealer's responsibility to report any loss, theft, or destruction of license plates includes a buyer's temporary license plate. Adopted amendments to §215.158(b) require a dealer to remove and void any previously assigned plates that cannot stay with the motor vehicle. Under the adopted amendment, the dealer must mark these license plates as void and destroy, recycle the void license plates with a metal recycler registered under Occupations Code, Chapter 1956, or return the void license plates to the department or a county tax assessor-collector. These steps are intended to prevent potential theft or fraud relating to plates that have been removed from a vehicle. These amendments are necessary to responsibly implement HB 718. Adopted amendments to

§215.158(c) require a dealer to return all license plates in their possession to the department within 10 days of closing the associated license or within 10 days of the department revoking, canceling, or closing the associated license, to reduce the risk of theft or fraudulent misuse of the plates. At adoption, an amendment to §215.158(c) deleted the word "buyer's" in describing license plates to clarify that all license plates in the dealer's possession must be returned to the department within 10 days if the dealer's license is revoked, cancelled, or closed. The remaining subsections of §215.158 are adopted for deletion as these subsections refer only to internet-down tags and are no longer necessary with the implementation of HB 718.

Adopted for repeal, §215.159 describes the requirements for converter's temporary tags, which will not exist when HB 718 is implemented, making §215.159 unnecessary.

Adopted amendments to §215.160(a) and §215.160(b) replace the references to titles under Transportation Code, §501.100 with the words "issued a title" to clarify that if dealers know a motor vehicle has formerly been a salvage vehicle, they must disclose this fact, regardless of whether the motor vehicle is currently titled under Transportation Code, §501.100. The effective date for the amendments to this section is 20 days after the adoption is filed with the Texas Secretary of State.

Adopted new §215.162 implements SB 224 by requiring dealers that repair a motor vehicle with a catalytic converter to comply with the statutory recordkeeping requirements in Occupations Code, Chapter 2305, Subchapter D, and to allow the department to inspect those records during business hours. The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

Subchapter E. Lessors and Lease Facilitators

An adopted amendment to §215.178(a)(2) simplifies language for improved readability by changing "a request from a representative of the department" to "a department records request." Adopted amendments to §§215.178(c)(7)(C) and (D) and §215.178(c)(8) replace references to the electronic title system with references to webDEALER, as defined in 43 TAC §217.71, relating to Automated and Web-Based Vehicle Registration and Title Systems, to provide additional context to the specific part of the electronic title system to which the section applies. An adopted amendment in §215.178(c)(8) adds an "a" before motor vehicle to correct sentence grammar. An adopted amendment to §215.178(g) adds an exception to those records that may be kept electronically for documents listed in subsection (c)(8) of this section, which are records that dealers are required to keep in webDEALER. The effective date for the amendments to this section is 20 days after the adoption is filed with the Texas Secretary of State.

SUMMARY OF COMMENTS.

The department received five written comments on the proposal from two individuals, the National Auto Auction Association (NAAA), the Texas Automobile Dealers Association (TADA), and the Texas Independent Automobile Dealers Association (TIADA).

Comment: TADA comments that in §215.120 (g) and (h), the term "license holder" is used rather than manufacturer, distributor, or converter, and requests that the department change the rule language accordingly.

Response: The department disagrees with this comment. At adoption, the department clarified that the criteria for evaluating applications for additional standard license plates is the same for all eligible license holders, including franchised and GDN dealers.

Comment: An individual commenter requests the department define "repair of a catalytic converter."

Response: The department disagrees with this comment because these terms are defined in statute. The term "repair" is defined in Occupations Code, §2305.001(2) and "catalytic converter" is defined in Occupations Code, §2305.151. The amendments and new rule adopted by the department do not change, expand, or diminish these statutory definitions.

Comment: TIADA requests a streamlined process be added to §215.133 for a dealer who has been licensed for 10 years to renew a license.

Response: The department disagrees that streamlining the dealer license renewal process is a change that can be made within the scope of this rule package but welcomes suggestions for streamlining the process that may be considered in a future rule proposal.

Comment: TADA requests that the webDEALER training requirement in §215.133 not be added to the current licensing requirements.

Response: The department agrees with this comment. At adoption, the department deleted the licensing requirement, and webDEALER access requirements are addressed in §217.74.

Comment: An individual commenter and TADA note a typographical error in a referenced citation to §217.74(g).

Response: The department agrees with this comment. Correcting the citation was unnecessary because the language was struck at adoption as noted in the response to the previous public comment.

Comment: TADA and TIADA request that in §215.138, the department not require the vehicle information to be entered into the license plate system for a test drive.

Response: The department agreed with this comment and exempted vehicle demonstrations from this rule at adoption.

Comment: An individual commenter suggests replacing the words "dealer's license plate record" with "electronic license plate system designed by the department" in §215.138(i)(1).

Response: The department agrees that the reference to dealer's license plate record is unnecessary. At adoption, the department struck all text in proposed §215.138(i)(1) and renumbered the remaining paragraphs. Substituting language in proposed §215.138(i)(1) is not necessary because the requirement to report the dealer's license plate in the electronic system designated by the department was included in proposed §215.138(i)(2), renumbered at adoption as §215.138(i)(1).

Comment: An individual commenter recommends including the option of returning voided dealer license plates to a county tax assessor-collector's office for consistency with other sections in §215.138(j).

Response: The department disagrees with this comment. Currently, dealers must return void dealer's standard license plates to the department and this requirement has allowed the department to track these plates, confirm dealer compliance with Transportation Code, §503.038, and properly dispose of these plates to prevent related fraud. Requiring dealers also to

return void dealer's temporary license plates to the department is consistent with the current requirement for standard plates and will allow the department to more efficiently manage these plates and prevent related fraud.

Comment: NAAA and an individual commenter request that language be added in §215.140 or §215.150, to define Texas license plates as securely stored if the license plates are: (1) physically stored inside a motor vehicle while the vehicle is stored on an auction's property; or (2) remain physically attached to the vehicle while it is stored on an auction's property.

Response: The department disagrees with this comment because it is unclear how effective either of these methods would be in preventing bad actors from stealing license plates from vehicles at auction. The department recognizes that motor vehicles sold at auction require coordination between the seller, the auction, and the buyer, and will solicit further input from stakeholders before proposing a future rule regarding the handling of these vehicle license plates.

Comment: NAAA and an individual commenter request that auctions should be exempt from any Texas license plate removal, reporting and storage requirements because of the wholesale (non-retail) nature of the transactions and the substantial cost outweighing any potential benefits.

Response: The department disagrees with this comment. NAAA estimates that based on 2023 data, approximately 100,000 vehicles in Texas are sold annually to out-of-state dealers. Not recovering these 100,000 Texas license plates per year represents a significant risk of fraud. The department also recognizes that transferring and securing license plates may have operational and cost impacts on both dealers and auctions and will solicit additional input from stakeholders on how these license plates could be efficiently and effectively secured and managed before proposing a rule regarding the handling of license plates for vehicles at auction. In the proposed rules, the only requirement for a wholesale motor vehicle auction was to have secure storage for license plates. At adoption, the department struck this requirement in anticipation of future rulemaking.

Comment: TADA thanks the department for allowing a dealer multiple options with respect to the location and means to store the license plates in the dealer's possession in §215.140.

Response: The department agrees with this comment. The department seeks to provide flexibility when possible.

Comment: TADA requests that if the department's electronic plate system is not available for use by the dealer at the time of the test drive, that sanctions not be available for assessment in §215.141.

Response: The department disagrees that a change to §215.141 is required. The department's enforcement team investigates and considers relevant facts and circumstances surrounding a potential violation before issuing a violation notice and assessing a penalty. These facts and circumstances would include any downtime of associated systems.

Comment: TADA requests that §215.150 include language allowing a buyer to request new general issue license plates regardless of whether the used vehicle did or did not come with a set of plates and suggests a reference be added to Transportation Code, §504.007.

Response: The department disagrees with this comment as this request is outside the scope of this rulemaking. This request may be considered in a future rulemaking consistent with the department's statutory authority.

Comment: An individual commenter recommends in §215.151(b) changing "titled and registered in another state" as a qualification for issuance of a temporary license plate as titling or registering may not be required under the applicable state law.

Response: The department agrees with this comment. At adoption, the department substituted the phrase "titled and registered in accordance with the laws of the buyer's state of residence."

Comment: An individual commenter requested that a reference in §215.151(d) be corrected to §215.150(f).

Response: The department agrees and corrected the citation at adoption.

Comment: NAAA requests that the department resolve any inconsistency between proposed §215.151(d) and §217.53(a) and (b).

Response: The department agrees with this comment, and at adoption has revised both sections for consistency as described in the explanation section of each rule adoption.

Comment: TADA suggests that §215.151(d)(1) state that a dealer who removes and stores the general issue license plates shall offer the assigned license plates to a Texas buyer that purchases the vehicle; otherwise, the buyer and seller may believe he or she is required to accept the previous owner's plates.

Response: The department disagrees with this comment as this request is outside the scope of this rulemaking. This request may be considered in a future rulemaking consistent with the department's statutory authority.

Comment: TIADA recommends allowing dealers to request additional license plates at any time by eliminating the 50 percent requirement in §215.152(i)(l) and (i)(2).

Response: The department disagrees with this comment. Based on the department's experience in managing temporary tags allocations, requiring a dealer to use 50% of an allocation before requesting additional license plates is an effective and practical way for both the dealer and the department to manage license plate requests and license plate inventory.

Comment: TADA expresses a concern that the initial allotment in §215.152 may be too narrow and requests TxDMV to continue to be receptive to a dealer's request for a greater number of buyer's license plates.

Response: The department agrees that the department must continue to be receptive to dealers' requests for a greater number of license plates based on business need and has adopted language to facilitate these requests. The adopted allotments are based on data currently available in department systems and the department will review usage and propose adjustments to these allocations in future rule proposals as required.

Comment: TADA requests that the department repeat the approved uses in Transportation Code, §503.062 in §215.154 and add a new provision that a dealer's temporary license plate may be used on a vehicle that is driven under a conditional delivery agreement as provided for in the Finance Code, §348.013 to provide a clearer understanding of the allowed uses.

Response: The department disagrees with this comment. A reference to Transportation Code, §503.062 is included in the definition of a dealer's temporary license plate in §215.132(2). Repeating statutory language in rule is unnecessary and doing so would require the department to amend the rule if the statutory language changes in the future.

Comment: An individual commenter requests clarification in §215.156 regarding whether a dealer will be required to print a receipt for a buyer's temporary license plate, and recommended that if so, including the expiration date on the receipt to coincide with the expiration date affixed on the plate to help mitigate malpractice or fraud.

Response: The department agrees that clarifying whether a receipt will be issued for a buyer's temporary license plate would be helpful. At adoption, the department clarified that §215.156 and §215.158 apply to a buyer's license plate and a buyer's temporary license plate. The department agrees with the recommendation to add language regarding the expiration to the temporary license plate receipt but chose not to add "expiration date" to the rule text at adoption because the department has not finalized the receipt text and the department has a choice whether to refer to the statutory 60-day period from the date of issuance or include a specific expiration date.

Comment: TADA requests that §215.157 be amended to allow the required information to be entered into the license plate system when the dealer or governmental agency has access to the internet, but no later than the close of the next business day after internet access is permanently secured.

Response: The department disagrees with this comment. Transportation Code, §503.0631(d) requires a dealer to submit the required information not later than the next business day after the time of sale. The department's enforcement team investigates and considers relevant facts and circumstances surrounding a violation before issuing a violation notice and assessing a penalty, including extenuating circumstances that may cause a prolonged outage, such as a natural disaster or extreme weather event.

Comment: An individual commenter requests removal of the references to "non-resident" and "out-of-state resident" from sections impacting the issuance of buyer's temporary license plates.

Response: The department disagrees because Transportation Code, §503.063(i) limits the applicability of these temporary license plates to non-resident buyers.

Comment: An individual commenter requests that the defined term "buyer's license plate" be used in all related rules for consistency in terminology.

Response: The department agrees with this comment and made multiple edits in the adopted text to make terminology more consistent. These nonsubstantive changes are described in the Explanation of Adopted Amendments, Repeals, and New Sections of the preamble.

Comment: NAAA recommends clarifying which license plate status updates must be completed by the selling Texas dealer or by the buying Texas dealer, as applicable.

Response: The department agrees that clarifying responsibilities is important and at adoption made changes to §215.151(d) to clarify certain dealer responsibilities when a dealer buys or sells a vehicle with an assigned license plate. Once the design for the new license plate system is finalized, the department anticipates that additional helpful clarification can be provided to dealers in rule and in system training and documentation.

Comment: TIADA requests that the adopted rules not include a suggestion to report stolen license plates to law enforcement.

Response: The department agrees with this comment and made changes at adoption to remove the referenced language.

Comment: An individual commenter requests multiple advanced system capabilities be included in the new license plate system and related webDEALER tools for the allocation, storage, and reporting of license plates and issuance of registration insignia.

Response: The department disagrees that this comment is within the scope of this rule proposal. However, the department will consider these requests as the department works with a vendor to design and implement the new system.

Comment: TADA requests that the department consider allowing the information in the electronic license plate system to be maintained as a secure confidential record.

Response: The department disagrees with this comment. The department understands dealers and the public may have confidentiality concerns. However, the department must comply with state law regarding the classification of information as public or confidential under Government Code, Chapter 552. The department anticipates that the information in the license plate system will be a mix of confidential and public/non-confidential information.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §215.1

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the

board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

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 October 25, 2024.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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Proposal publication date: July 12, 2024
For further information, please call: (512) 465-4160

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43 TAC §215.2

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

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

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General Counsel
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SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §215.101, §215.121

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §2001.004 and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

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

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43 TAC §215.120

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure

before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §2001.004 and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

§215.120. Standard License Plates.

(a) A manufacturer, distributor, or converter may apply for a manufacturer or converter standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

(1) when applying for a new or renewal license, or

(2) by submitting a standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer's standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A manufacturer's standard license plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a standard license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the manufacturer, distributor, or converter by the department either in the license holder's recordkeeping system or in the department-designated system. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

(3) the VIN of the vehicle, if one has been assigned; and

(4) the name of the person in control of the license plate.

(e) If a manufacturer, distributor, or converter cannot account for a standard license plate or a standard license plate is damaged, the manufacturer, distributor, or converter shall:

(1) document the license plate as "void" in the department-designated system; and

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged electronically in the system designated by the department; and

(3) if found after reported missing, cease use of the license plate.

(f) A standard license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void license plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, shall destroy or recycle the license plate, or return the license plate to the department within 10 days.

(g) In evaluating requests for additional standard license plates from any eligible license holder, including a franchised or other GDN dealer, the department shall consider the business justification provided by a license holder including the following:

(1) the number of vehicles assembled or modified;

(2) the highest number of motor vehicles in inventory in the prior 12 months;

(3) the size and type of business;

(4) how the license holder typically uses standard licenses plates;

(5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and

(6) any other factor the Department in its discretion deems necessary to support the number of license plates requested.

(h) a license holder shall return a department-issued license plate to the department within 10 days of the license holder closing the associated license or the associated license being revoked, canceled, or closed by the department.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §§215.131, 215.141, 215.148, 215.160, 215.162

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501 - 504, 520, and 1001-1005.

§215.141. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) deny an application;

(2) revoke a license;

(3) suspend a license;

(4) assess a civil penalty;

(5) issue a cease and desist order; or

(6) or take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) fails to maintain a good and sufficient bond or post the required bond notice if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) issues more than one buyer's license plate or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

(13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as required by law;

(14) holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1001-1005; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(18) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1001 - 1005; or other laws;

(22) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates);

(26) on or after July 1, 2025, fails to securely store a license plate;

(27) fails to maintain a record of dealer license plates as required under §215.138 of this title (relating to Use of Dealer's License Plates);

(28) on or after July 1, 2025, fails to file or enter a vehicle transfer notice;

(29) fails to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time limit prescribed by rule;

(30) violates any state or federal law or regulation relating to the sale of a motor vehicle;

(31) knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular Certificate of Title for Salvage Vehicle);

(32) fails to issue a refund as ordered by the board or department; or

(33) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;

(34) on or after July 1, 2025, fails to remove a license plate from a vehicle sold to an out-of-state buyer or from a vehicle sold for export; or

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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43 TAC §§215.132, 215.138, 215.140, 215.143, 215.144, 215.147, 215.150 - 215.152, 215.154 - 215.158

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501 - 504, 520, and 1001-1005.

§215.138. Use of Dealer's License Plates.

(a) A dealer's standard, personalized prestige, or temporary license plate must be attached to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(b) A copy of the receipt for a dealer's standard, personalized prestige, or temporary license plate issued by the department should be carried in the vehicle to present to law enforcement personnel upon request.

(c) A dealer's standard, personalized prestige, or temporary license plate may not be displayed on:

(1) a laden commercial vehicle being operated or moved on the public streets or highways;

(2) the dealer's service or work vehicle, except as provided by Transportation Code, §503.068(b-1);

(3) a golf cart as defined under Transportation Code Chapter 551; or

(4) an off-highway vehicle as defined under Transportation Code Chapter 551A.

(d) For purposes of this section, a dealer's service or work vehicle includes:

(1) a vehicle used for towing or transporting another vehicle;

(2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;

(3) a courtesy car on which a courtesy car sign is displayed;

(4) a rental or lease vehicle; and

(5) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.

(e) For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not considered a laden commercial vehicle when it is:

(1) mounted with a camper unit; or

(2) towing a trailer for recreational purposes.

(f) A dealer's standard, personalized prestige, or temporary license plate may be displayed only on the type of vehicle for which the GDN is issued and for which a dealer is licensed to sell. A nonfranchised dealer may not display a dealer's standard or personalized prestige license plate on a new motor vehicle.

(g) A dealer's standard or personalized prestige license plate may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548.

(h) A dealer shall maintain in an electronic license plate system designated by the department a record of each dealer's standard, personalized prestige, or temporary license plate issued by the department to that dealer. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the dealer's license plate is affixed;

(3) the VIN of the vehicle; and

(4) the name of the person in control of the vehicle or license plate.

(i) If a dealer cannot account for a dealer's standard or personalized prestige license plate that the department issued to that dealer, the dealer shall:

(1) within three days of discovering that the dealer's license plate is missing or damaged, report the dealer's license plate as lost, stolen, or damaged in the electronic system designated by the department; and

(2) if found, cease use of the dealer's license plate.

(j) A dealer's standard, personalized prestige, or temporary license plate is no longer valid for use after the dealer reports to the department that the dealer's license plate is lost, stolen, or damaged. A dealer shall:

(1) render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and

(2) destroy or recycle the license plate or return the license plate to the department within 10 days.

(k) A dealer shall return a department-issued license plate, sticker, or receipt to the department within 10 days of the dealer closing the associated license or the department revoking or canceling the license.

(l) A wholesale motor vehicle auction GDN holder that also holds a dealer GDN may display a dealer's temporary license plate assigned to that dealer GDN on a vehicle that is being transported to or from the licensed auction location.

(m) The recordkeeping requirements in §215.138(h) do not apply when a vehicle is being operated solely for the purpose of demonstration.

§215.140. Established and Permanent Place of Business Premises Requirements.

(a) A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license. If multiple dealers are licensed at a location, each dealer must maintain the following requirements during the entire term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office must be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office in a manner and location that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) Business sign requirements for retail dealers.

(A) A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) A retail dealer is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) Business sign requirements for wholesale motor vehicle dealers.

(A) Exterior Sign

(i) A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height

showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(ii) The sign must be permanently mounted on the business property at the physical address listed on the application. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground. A wholesale motor vehicle dealer may use a temporary exterior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(B) Interior Sign

(i) If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the property owner, a conspicuous permanent business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least one inch in height.

(ii) An interior business sign is considered conspicuous if it is easily visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior sign is considered permanent if made from durable material and has lettering that cannot be changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(C) A wholesale motor vehicle dealer is responsible for ensuring that the business sign complies with municipal ordinances and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

(A) A dealer's office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) A dealer's office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) A dealer's office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) A dealer's office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a dealer's customer to pass through the other business.

(E) A dealer's office may not be virtual or provided by a subscription for office space or office services. Access to an office space or office services is not considered an established and permanent location.

(F) The physical address of the dealer's office must be in Texas and recognized by the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a dealer's or buyer's license plate to an out-of-state address and will only mail or deliver a license plate to a dealer's physical location.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(H) The dealer's office space must:

(i) include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms;

(ii) have a minimum seven-foot-high ceiling;

(iii) accommodate required office equipment; and

(iv) allow a dealer and customer to safely access the office and conduct business in private while seated.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access;

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts business; and

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all dealer's and buyer's license plates in a dealer's possession including both assigned plates for vehicles in inventory and unissued buyer's license plates.

(7) Number of retail dealers in one building. Not more than four retail dealers may be located in the same building. Each retail dealer located in the same building must meet the requirements of this section.

(8) Number of wholesale motor vehicle dealers in one office building. Not more than eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor vehicle dealer located in the same office building must meet the requirements of this section.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer licensed after September 1, 1999, may not be located in the same building.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the

name of the other business, a separate telephone listing and a separate sign for each business are required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property that meets the requirements of this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(C) A dealer's office must have permanent interior walls on all sides and be separate from any public area used by another business.

(11) Display area and storage lot requirements.

(A) A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business premises.

(B) A retail dealer must have an area designated as display space for the retail dealer's inventory. A retail dealer's designated display area must comply with the following requirements.

(i) The display area must be located at the retail dealer's physical business address or contiguous to the retail dealer's physical address. The display area may not be in a storage lot.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. The display area must be reserved exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.

(iii) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(iv) If a retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(v) If a dealer's business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the dealer's display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(vi) The display area must be adequately illuminated if the retail dealer is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(vii) The display area may be located inside a building; however, if multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

(13) Lease requirements. If the premises from which a dealer conducts business, including any display area, is not owned by the dealer, the dealer must maintain a lease that is continuous during the period of time for which the dealer's license will be issued. The lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

(B) the period of time for which the lease is valid;

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, a dealer must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a vehicle sales business from the location.

(14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN issued by the department at all times in a manner that makes the GDN easily readable by the public and in a conspicuous place at each place of business for which the dealer's GDN is issued. A dealer required to obtain a surety bond must post a bond notice adjacent to and in the same manner as the dealer's GDN is displayed. The notice must include the bond company name, bond identification number, and procedure by which a claimant can recover under the bond. The notice must also include the department's website address and notify a consumer that a dealer's surety bond information may be obtained by submitting a request to the department. If the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.

(b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction must comply with the following premises requirements:

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

(2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) a wholesale motor vehicle auction GDN holder must display a business sign that meets the following requirements:

(A) The sign must be a conspicuous, permanent sign with letters at least six inches in height showing the business name or assumed name substantially similar to the name reflected on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the wholesale motor vehicle auction GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) An applicant may use a temporary sign or banner if the applicant can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) An applicant or holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) The business office of a wholesale motor vehicle auction GDN applicant and holder must meet the following requirements:

(A) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) The office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) The office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) The office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a customer to pass through the other business.

(E) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(F) The physical address of the office must be in Texas and recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(5) A wholesale motor vehicle auction GDN applicant and holder must have the following office equipment:

(A) a desk;

(B) a chair;

(C) internet access; and

(D) a working telephone number listed in the business name or assumed name under which business is conducted.

(6) A wholesale motor vehicle auction must meet the following display area and storage lot requirements:

(A) The area designated as display space for inventory must be located at the physical business address or contiguous to the physical address. The display area may not be in a storage lot.

(B) The display area must be of sufficient size to display at least five vehicles. Those spaces must be reserved exclusively for inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, or a driveway to the office.

(C) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(D) If the business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(E) The display area must be adequately illuminated if open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(F) The display area may be located inside a building.

(G) A wholesale motor vehicle auction may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the business name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(7) A wholesale motor vehicle auction must meet the following lease requirements if the business premises, including any display area, is not owned by the wholesale motor vehicle auction:

(A) the applicant or holder must maintain a lease that is continuous during the period of time for which the GDN will be issued;

(B) The lease agreement must be on a properly executed form containing at a minimum:

(i) the name of the property owner as the lessor of the premises and the name of the GDN applicant or holder as the tenant or lessee of the premises;

(ii) the period of time for which the lease is valid;

(iii) the street address or legal description of the property, provided that if only a legal description of the property is included, a wholesale motor vehicle auction must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(iv) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee; and

(C) if the lease agreement is a sublease in which the property owner is not the lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the wholesale motor vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle auction business from the location.

§215.143. Drive-a-way Operator In-Transit License Plates.

(a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

(1) when applying for a new or renewal in-transit license, or

(2) by submitting a plate request application electronically in the system designated by the department.

(b) A drive-a-way operator must display an in-transit license plate in the rear of each transported motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by the department in the department-designated system. The record of each license plate issued must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

(3) the VIN of the vehicle; and

(4) the name of the person in control of the license plate.

(d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the operator must:

(1) document the license plate as "void" in the department-designated system;

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged in the electronic system designated by the department; and

(3) if found once reported, cease use of the license plate.

(e) A license plate is no longer valid for use after the drive-a-way operator reports to the department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, may destroy or recycle the license plate, or return the license plate to the department for recycling within 10 days.

(f) In evaluating requests for additional license plates, the department will consider the business justification provided by a drive-a-way operator including the following:

(1) the number of vehicles currently being transported to a location in Texas;

(2) the highest number of motor vehicles transported in the prior 12 months;

(3) the size and type of business; and

(4) the operator's record of tracking and reporting missing or damaged plates to the department.

(g) If a drive-a-way operator closes the associated license or the associated license is revoked or canceled by the department, the operator must return a license plate to the department within 10 days.

§215.150. Dealer Authorization to Issue License Plates.

(a) A dealer that holds a GDN must issue a buyer's license plate for a vehicle type the dealer is authorized to sell to:

(1) a buyer of a new vehicle to be titled and registered in Texas, unless the buyer has a specialty, personalized, or other qualifying license plate eligible to be assigned to the vehicle with approval of the department; or

(2) a buyer of a used vehicle to be titled and registered in Texas if a buyer's license plate did not come with the vehicle and the buyer does not have a specialty, personalized, or other qualifying license plate eligible to be assigned to the vehicle with approval of the department.

(b) Notwithstanding subsection (a), a dealer that holds a GDN is not required to issue a buyer's license plate to a vehicle sold to a commercial fleet buyer authorized as a Dealer Deputy under §217.166 of the title (relating to Dealer Deputies).

(c) A dealer that holds a GDN must issue a buyer's temporary license plate to an out-of-state buyer for a vehicle that is to be registered in accordance with the laws of the buyer's state of residence.

(d) A dealer may issue a license plate under Transportation Code §503.063 until:

(1) the department denies access to the license plate system under Transportation Code §503.0633(f) and §224.58 of this title (relating to Denial of Dealer Access to License Plate System);

(2) the dealer issues the maximum number of license plates authorized under Transportation Code, §503.0633(a) - (d); or

(3) the GDN is canceled, revoked, or suspended.

(e) A governmental agency that is exempt under Transportation Code, §503.024 from the requirement to obtain a dealer general distinguishing number may issue a buyer's license plate or a buyer's temporary license plate to the buyer of a vehicle owned by the governmental agency unless the buyer has a specialty, personalized, or other qualifying license plate that is eligible to be assigned to the vehicle with approval of the department. A governmental agency that issues a buyer's license plate or buyer's temporary license plate under this subsection:

(1) is subject to the provisions of Transportation Code §503.0631 and §503.0671 applicable to a dealer; and

(2) is not required to charge the registration fee authorized under Transportation Code §503.063(g) and specified in §215.155(g) of this title (relating to Buyer's License Plates).

(f) A dealer is responsible for all use of and access to all license plates in the dealer's possession and the license plate system under the dealer's account, including access by any user or unauthorized person. Dealer duties include monitoring license plate storage and issuance, managing account access, and taking timely and appropriate actions to maintain license plate and system security, including:

(1) establishing and following reasonable password policies, including preventing the sharing of passwords;

(2) limiting authorized users to owners and bona fide employees with a business need to access license plates and the license plate system;

(3) removing users who no longer have a legitimate business need to access the system;

(4) securing all license plates, including license plates assigned to vehicles in inventory, dealer's license plates, and unissued buyer's license plates, by storing license plates in a locked and secured room or closet or one or more securely locked, substantially constructed safes or steel cabinets bolted or affixed to the floor or wall of sufficient size to store all dealer and buyer's license plates in a dealer's possession, and by promptly marking and destroying, recycling, or returning void license plates as required under §215.158 of this title (relating to General Requirements for Buyer's License Plates; and

(5) securing equipment used to access the license plate system.

§215.151. License Plate General Use Requirements.

(a) If a buyer purchases a vehicle to be registered in Texas, a dealer must secure, or a government agency may secure, a license plate to the vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia) and update the license plate system accordingly.

(1) A dealer must secure, or a governmental agency may secure, a buyer-provided license plate on the purchased vehicle if a buyer provides a specialty, personalized, or other qualifying license plate that is eligible to be assigned to the vehicle with approval of the department and update the license plate system accordingly.

(2) A dealer must issue a buyer's license plate to the buyer if a buyer purchases a new vehicle from a dealer and the buyer does not have a specialty, personalized, or other qualifying license plate to transfer to the vehicle.

(3) A dealer must issue, or a governmental agency may issue, a buyer's license plate to a buyer purchasing a used vehicle if the vehicle does not have an assigned license plate in the license plate system or the assigned license plate is missing or damaged and the buyer does not have a specialty, personalized, or other qualifying license plate to transfer to the vehicle.

(b) If a non-resident buyer purchases a vehicle to be titled and registered in accordance with the laws of the buyer's state of residence, a dealer must issue, or a governmental agency may issue, a buyer's temporary license plate and secure the temporary license plate to the rear of a vehicle in accordance with §217.27 of this title and update the license plate system accordingly.

(c) If a vehicle has an assigned license plate and the buyer provides a specialty, personalized, or other qualifying license plate to transfer to the vehicle, a dealer must update the license plate status in the license plate system, mark the license plate as void and destroy, recycle, or return the license plate as required in §215.158 of the title (relating to General Requirements for Buyer's License Plates).

(d) A dealer, including a wholesale dealer, must remove a buyer's license plate from a purchased vehicle and store the license plate in a secure location in accordance with §215.150(f) of this title (relating to Dealer Authorization to Issue License Plates). Upon vehicle sale, the dealer must update the license plate database and:

(1) provide the assigned license plate to a Texas retail buyer that purchases the vehicle; or

(2) if the vehicle is sold to a Texas dealer, securely transfer the assigned license plate to the purchasing dealer; or

(3) if the vehicle is sold to an out-of-state buyer or for export, mark the license plate as void and destroy, recycle, or return the license plate as required in §215.158 of this title.

§215.152. Obtaining Dealer-Issued Buyer's License Plates.

(a) A dealer or governmental agency is required to have internet access to connect to webDEALER and the license plate system maintained by the department and is responsible for verifying receipt of license plates in the license plate system.

(b) Except as provided by §215.157 of this title (relating to Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available) before a license plate may be issued or secured on a vehicle, a dealer or governmental agency must enter in the license plate system true and accurate information about:

(1) the vehicle;

(2) the buyer; and

(3) the license plate number issued or assigned to the vehicle.

(c) The department will inform each dealer annually of the maximum number of buyer's license plates the dealer is authorized to obtain during the calendar year under Transportation Code, §503.063, including:

(1) an allotment of unassigned buyer's license plates to be issued to a buyer of a vehicle that is to be titled and registered in Texas, and

(2) a separate allotment of buyer's temporary license plates to be issued to a non-resident buyer for a vehicle that will be registered and titled in another state.

(d) The department will calculate a dealer's maximum annual allotment of unassigned buyer's license plates and buyer's temporary license plates based on the following formula:

(1) Vehicle title transfers, sales, or license plate issuance data determined from the department's systems from the previous fiscal year;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions processed through the department-designated registration and title system or license plate system, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of relevant transactions processed through the department-designated registration and title system or license plate system, not less than zero, to determine the dealer's annual allotment; and

(4) the department may increase the annual allotment for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(e) A dealer licensed after the commencement of a calendar year shall be allocated the number of buyer's license plates and buyer's temporary plates allocated in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's initial license expires. The initial allocations shall be as determined by the department in granting the license, but not more than:

(1) 200 buyer's license plates and 100 buyer's temporary license plates for a franchised dealer unless the dealer provides credible information indicating that a greater number of buyer's license plates is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section.

(2) 100 buyer's license plates and 48 buyer's temporary license plates for a nonfranchised dealer unless the dealer provides credible information indicating that a greater number of license plates is warranted based on anticipated sales as otherwise provided in this section.

(f) An existing dealer that is:

(1) moving its operations from one location to a different location will continue with its allotment of buyer's license plates and buyer's temporary license plates and not be allocated license plates under subsection (e) of this section;

(2) opening an additional location will receive a maximum allotment of buyer's license plates and buyer's temporary license plates based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (e) of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being purchased and not be allocated license plates under subsection (e) of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being inherited and not be allocated license plates under subsection (e) of this section.

(g) A new dealer may also provide credible information supporting a request for additional buyer's license plates and buyer's temporary license plates to the amount allocated under subsection (e) of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in GDN required by death or retirement, except as provided in subsection (f) of this section;

(3) prior year's sales by a dealer moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(h) The annual allotment of buyer's issue license plates and buyer's temporary license plates will each be divided by four and allocated to a dealer on a quarterly basis, unless a dealer sells only antique or special interest vehicles as defined by Transportation Code, §683.077(b), in which case each allocation may be divided by two and allocated on a half-yearly basis. A dealer's remaining unissued license plates at the end of the allocation period will count towards the dealer's next allotment.

(i) A dealer may request more buyer's license plates or buyer's temporary license plates:

(1) after using 50 percent of the quarterly allocation of general issue plates or buyer temporary plates, a dealer may request an advance on the next quarter's allotment; or

(2) after using 50 percent of the allotted annual maximum number of general issue plates or buyer temporary plates a dealer may request an increase in the annual allotted number of license plates.

(j) To receive more buyer's license plates or buyer's temporary license plates under subsection (i), a dealer must submit a request in the department's designated license plate system.

(k) A dealer requesting an increase in the maximum annual allotment of buyer's license plates or buyer's temporary license plates must provide information demonstrating the need for additional license plates results from business operations, including anticipated needs, as required by Transportation Code, §503.0633(c). Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in Transportation Code, §503.0633(b).

(1) The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other relevant information may include information of the factors listed in Transportation Code, §503.0633(b), the timing of the request, and the requestor's license plate activity.

(2) The department may allocate a lesser or greater number of additional license plates than the amount requested. Allocation of a lesser or greater number of additional license plates is not a denial of the request. Allocation of additional license plates under this paragraph does not limit the dealer's ability to submit additional requests for more license plates.

(3) If a request is denied, the denial will be sent to the dealer by email to the requestor's email address.

(A) A dealer may appeal the denial to the designated director in the Vehicle Titles and Registration Division.

(B) The appeal must be requested though the designated license plate system within 15 days of the date the department emailed the denial to the dealer.

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The designated director in the Vehicle Titles and Registration Division will review the appeal and any additional statements concerning the information submitted in the original request and render an opinion within 15 days of receiving the appeal. The designated director in the Vehicle Titles and Registration Division may de-

cide to deny the appeal and issue no additional license plates or award an amount of additional license plates that is lesser, equal to, or greater than the request.

(E) The requesting dealer will be notified as follows:

(i) If the designated director in the Vehicle Titles and Registration Division decides to deny the appeal, the department will contact the requesting dealer by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the designated director in the Vehicle Titles and Registration Division awards an amount of additional license plates that is lesser, equal to, or greater than the request, the additional license plates will be added to the dealer's allocation and the dealer will be contacted by email regarding the decision, informed that the request has not been denied, and options to submit a new request.

(4) The designated director in the Vehicle Titles and Registration Division's decision on appeal is final.

(5) Once a denial is final, a dealer may only submit a subsequent request for additional license plates during that calendar year if the dealer is able to provide additional information not considered in a prior request.

(l) A change in the allotment under subsection (i) of this section does not create a dealer base for subsequent year calculations.

(m) The department may at any time initiate an enforcement action against a dealer if license plate system activity suggests that misuse or fraud has occurred as described in Transportation Code §503.0633(f) or §503.0671.

§215.155. Buyer's License Plates.

(a) A dealer may issue and secure a buyer's license plate or a buyer's temporary license plate only on a vehicle:

(1) from the selling dealer's inventory; and

(2) that can be legally operated on the public streets and highways; and

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's general issue or temporary license plate to the buyer of a vehicle that is to be titled but not registered.

(c) For a wholesale transaction:

(1) a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

(A) dealer's temporary license plate; or

(B) dealer's standard or personalized prestige license plate.

(2) if a general issue plate is assigned to a vehicle, the selling dealer must provide the license plate to the purchasing dealer for placement on the vehicle at time of retail sale.

(d) A buyer's temporary license plate is valid until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 60th day after the date of purchase.

(e) A dealer shall charge a buyer a fee of $10, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county with the title transfer application for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) A governmental agency may charge a buyer a fee of $10 unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.156. Buyer's License Plate Receipt.

A dealer or governmental agency must print a buyer's license plate receipt from the department's designated electronic system and provide the receipt to the buyer of each vehicle for which a buyer's license plate or buyer's temporary license plate is issued. The dealer or governmental agency, shall instruct the buyer to keep a copy of the buyer's license plate receipt in the vehicle until the vehicle is registered in the buyer's name and the vehicle registration insignia is affixed to the motor vehicle windshield or plate, as applicable. The buyer's license plate receipt must include the following information:

(1) the issue date of the buyer's license plate or buyer's temporary license plate;

(2) the year, make, model, body style, color, and VIN of the vehicle sold;

(3) the license plate number;

(4) the date of the sale;

(5) the name of the issuing dealer and the dealer's license number or the name of the issuing federal, state, or local governmental agency;

(6) the buyer's name and mailing address; and

(7) if the vehicle is to be registered in Texas, the procedure by which the vehicle's registration insignia will be provided to the buyer as required under Transportation Code, §503.0631.

§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.

In accordance with Transportation Code, §503.0631(d), if a dealer or governmental agency is unable to access the internet at the time of a sale, the dealer or governmental agency must document the issuance of a buyer's license plate or a buyer's temporary license plate on a receipt form prescribed by the department and enter the required information regarding the sale in the license plate system not later than the close of the next business day. The buyer's receipt must include a statement that the dealer or governmental agency, has internet access but, at the time of the sale, the dealer or governmental agency, was unable to access the internet or the license plate system and meet the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt).

§215.158. General Requirements for Buyer's License Plates.

(a) A dealer or governmental agency is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 (relating to Dealer Authorization to Issue License Plates). A dealer or governmental agency shall report any loss, theft, or destruction of a buyer's license plate or buyer's temporary license plate to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction.

(b) When a dealer is required to remove and void a previously assigned buyer's license plate or other type of license plate from a vehicle sold to an out-of-state buyer or for another reason allowed by rule, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

(1) destroy the license plate; or

(2) recycle the license plate using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

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

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43 TAC §215.133

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501 - 504, 520, and 1001-1005.

§215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

(a) No person may engage in business as a dealer or as a wholesale motor vehicle auction unless that person has a valid GDN assigned by the department for each location from which the person engages in business. A dealer must also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle auction.

(b) Subsection (a) of this section does not apply to a person exempt from the requirement to obtain a GDN under Transportation Code §503.024.

(c) A GDN dealer or wholesale motor vehicle auction application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or wholesale motor vehicle auction application must include all required information, required supporting documents, and required fees and must be submitted to the department electronically in the licensing system designated by the department. A GDN dealer or wholesale motor vehicle auction GDN holder renewing or amending its GDN must verify current license information, provide related information and documents for any new requirements or changes to the GDN, and pay required fees including any outstanding civil penalties owed the department under a final order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

(1) Required information:

(A) type of GDN requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the established and permanent place of business if the owner is out of state or will not be present during business hours at the established and permanent place of business in Texas;

(I) if a dealer, the name, telephone number, and business email address of the account administrator for the temporary tag database prior to July 1, 2025, or for the license plate system on or after July 1, 2025, designated by the applicant who must be an owner or representative listed in the application;

(J) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(K) military service status;

(L) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(M) information about the business location and business premises, including whether the applicant will operate as a salvage vehicle dealer at the location;

(N) history of insolvency, including outstanding or unpaid debts, judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act) or is pending resolution under a case filed under the Bankruptcy Act;

(O) signed Certification of Responsibility, which is a form provided by the department; and

(P) if a dealer, whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed; and

(Q) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) proof of a surety bond if required under §215.137 of this title (relating to Surety Bond);

(B) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(C) each assumed name certificate on file with the Secretary of State or county clerk;

(D) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card.

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location complies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

(F) documents proving business premises ownership, or lease or sublease agreement for the license period;

(G) business premises photos and a notarized affidavit certifying that all premises requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) are met and will be maintained during the license period;

(H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;

(I) proof of completion of the dealer education and training required under Transportation Code §503.0296, if applicable; and

(J) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the fee for each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each dealer's standard plate, and dealer's temporary license plate on or after July 1, 2025, requested by the applicant as prescribed by law.

(d) An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Types), as applicable.

(e) An applicant for a GDN operating under a name other than the applicant's business name shall use the assumed name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(f) A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles at retail.

(g) An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(h) In evaluating a new or renewal GDN application or an application for a new GDN location, the department may require a site visit to determine if the business location meets the requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized affidavit confirming that all premises requirements are met and will be maintained during the license period.

(i) A person holding an independent motor vehicle GDN does not have to hold a salvage vehicle dealer's license to:

(1) act as a salvage vehicle dealer or rebuilder; or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

(j) A person holding an independent motor vehicle GDN and performing salvage activities under subsection (i) must apply for a National Motor Vehicle Title Information System (NMVTIS) identification number and provide the number to the department in the GDN application.

(k) To be eligible for an independent motor vehicle GDN, a person must complete dealer education and training specified by the department, except as provided in this subsection:

(1) once a person has completed the required dealer education and training, the person will not have to retake the dealer education and training for subsequent GDN renewals, but may be required to provide proof of dealer education and training completion as part of the GDN renewal process;

(2) a person holding an independent motor vehicle GDN for at least 10 years as of September 1, 2019, is exempt from the dealer education and training requirement; and.

(3) a military service member, military spouse, or military veteran will receive appropriate credit for prior training, education, and professional experience and may be exempted from the dealer education and training requirement.

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 October 25, 2024.

TRD-202405114
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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Proposal publication date: July 12, 2024
For further information, please call: (512) 465-4160

43 TAC §§215.151, 215.153, 215.154, 215.159

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, Transportation Code; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts repeals under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt

rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 501 - 504, and 1001-1005.

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 October 25, 2024.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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Proposal publication date: July 12, 2024
For further information, please call: (512) 465-4160

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SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

43 TAC §215.178

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and 1001-1005.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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Proposal publication date: July 12, 2024
For further information, please call: (512) 465-4160

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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments, a new section and repeals

to 43 Texas Administrative Code (TAC) Chapter 217, Subchapter A, Motor Vehicle Titles; §§217.2 - 217.9, 217.11, and 217.14 - 217.16; Subchapter B, Motor Vehicle Registration, §§217.22, 217.23, 217.25 - 217.29, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50 - 217.56; Subchapter C, Registration and Title Systems, §§217.71, 217.74, and 217.75; Subchapter D, Nonrepairable and Salvage Motor Vehicles, §§217.81 - 217.86, 217.88, and 217.89; Subchapter E, Title Liens and Claims, §217.106; Subchapter F, Motor Vehicle Records, §§217.122 - 217.125, 217.129, and 217.131; Subchapter G, Inspections §217.143 and §217.144; Subchapter H, Deputies, §§217.161 and 217.168; Subchapter I, Fees, §§217.181 - 217.185; Subchapter J, Performance Quality Recognition Program, §217.205; and Subchapter L, Assembled Vehicles, §217.404. The department adopts new §217.31 in Subchapter B and adopts repeals of §217.34 in Subchapter B and §217.87 in Subchapter D.

The department adopts the following sections without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5066) and they will not be republished: §§217.3, 217.4, 217.6, 217.7, 217.8, 217.9, 217.11, 217.14, 217.15, 217.16, 217.23, 217.25, 217.26, 217.28, 217.29, 217.31, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50, 217.51, 217.52, 217.54, 217.55, 217.56, 217.71, 217.75, 217.85, 217.86, 217.88, 217.89, 217.106, 217.122, 217.124, 217.125, 217.129, 217.131, 217.143, 217.144, 217.161, 217.168, 217.181, 217.182, 217.183, 217.184, and 217.205.

The following sections are adopted with revisions to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5066) and will be republished: §§217.2, 217.5, 217.22, 217.27, 217.53, 217.74, 217.81, 217.82, 217.83, 217.84, 217.123, 217.185 and 217.404.

In conjunction with this adoption, the department is adopting the repeal of §217.34 and §217.87, which is also published in this issue of the *Texas Register.* The rule sections will not be republished.

The department adopts amendments, a new section, and repeals to bring the rules into alignment with statute; to remove language that is redundant with statute; to clarify the purpose of a rule by amending the title and language; to clarify existing requirements; to modernize language and improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and references; and to more specifically describe the department's methods and procedures.

Amendments are also adopted to implement House Bill (HB) 718, 88th Legislature, Regular Session (2023), which amended various sections in Transportation Code, Chapters 501, 502, 503, 504, 520, and 548 to remove provisions authorizing a vehicle dealer or converter to issue a temporary tag for a vehicle and replace these tags with categories of license plates, effective July 1, 2025. Accordingly, HB 718 requires a motor vehicle dealer to issue to a person who buys a vehicle from the dealer a license plate or a set of license plates. HB 718 requires the department to determine new distribution methods, systems, and procedures; set certain fees; and adopt related rules by December 1, 2024. Beginning July 1, 2025, if a new motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to another Texas buyer.

Additionally, amendments are adopted to implement HB 3297, 88th Legislature, Regular Session (2023), which amended various sections in Transportation Code, Chapters 502, 547, and 548. HB 3297 repealed Transportation Code provisions mandating vehicle safety inspections for noncommercial vehicles but maintained safety inspections for commercial vehicles and vehicle emissions inspections for vehicles in certain counties. HB 3297 is effective January 1, 2025.

Due to the delayed effective dates of HB 718 and HB 3297, it is necessary to delay the effective dates of the rules implementing those bills. As a result, the amendments to §§217.4, 217.15, 217.27 and 217.89 are adopted to be effective January 1, 2025, and adopted amendments to §§217.8, 217.16, 217.40, 217.46, 217.52, 217.53, 217.168, 217.182 and 217.185 are adopted to be effective July 1, 2025. While the amendments to §217.83 were proposed to be effective immediately, the amendments to §217.83 are adopted to be effective January 1, 2025, to allow insurance companies time for the preparation and training necessary to file owner-retained applications in webDEALER, as required by the amendments to §217.83. All other adopted rules will be effective 20 days after filing with the Secretary of State.

REASONED JUSTIFICATION.

Subchapter A. Motor Vehicle Titles

Adopted amendments to §217.2 delete the definitions for "all-terrain vehicle or ATV," "house moving dolly," "implements of husbandry," "obligor," "off-highway vehicle," "recreational off-highway vehicle or ROV," "sand rail," and "utility vehicle or UTV" because none of these terms are used in adopted amended Chapter 217. Another adopted amendment adds a new definition for "current photo identification" in new §217.2(4), using language that currently appears in §217.5(d)(4) to allow the department the flexibility to accept government-issued photo identification as well as state-issued personal identification certificates that do not have expiration dates. At adoption and in response to a public comment, the phrase "within 12 months of the expiration date" in the definition of "current photo identification" was replaced with "expired not more than 12 months" to make the definition clearer and provide for ease of reading. The remaining paragraphs in §217.2 are adopted to be renumbered accordingly. An adopted amendment to §217.2(25) deletes subparagraphs A, B, and C from the definition of "verifiable proof," as those subparagraphs are unnecessary and duplicative of language in §217.7, relating to Replacement of Title.

An adopted amendment to the introductory sentence in §217.3 adds the words "or this subchapter" to clarify that the rules in 43 TAC Chapter 217, Subchapter A, relating to Motor Vehicle Titles, regulate applications for title by motor vehicle owners. An adopted amendment deletes §217.3(1)(B) to remove unnecessary language that is duplicative of the definition of "moped" in §217.2 and removes the letter for subparagraph (A) because there would only be one subparagraph in §217.3(1) due to the adopted deletion of subparagraph (B). An adopted amendment deletes §217.3(2)(A) to conform the rule to the Texas Transportation Code, Chapter 501, which does not prohibit the titling of implements of husbandry. An adopted amendment to §217.3(2)(C) replaces "farm tractors" with "tractors" to clarify that while farm tractors may be exempt from registration, tractors used to mow rights of way or to move commodities are not. Another adopted amendment deletes §217.3(2)(D) to remove unnecessary language that is duplicative of language in the Transportation Code. The remaining subsections of §217.3(2) are adopted to be renumbered accordingly. An adopted amend-

ment to §217.3(4) deletes the portion of the paragraph reciting the weight requirements for mandatory titling of trailers, as well as the portion of the paragraph stating that trailers under 4,000 pounds may be permissively titled, to remove unnecessary language that is duplicative of language in the Transportation Code.

An adopted amendment to §217.4(d)(4) deletes language requiring completion of a vehicle inspection under Transportation Code, Chapter 548 for all title applications, and substitutes language specifying that for vehicles last registered in another state, applicants must verify the vehicle identification number (VIN) by a process described on a department self-certification form if the vehicle is not subject to Transportation Code, Chapter 548. The adopted changes would implement HB 3297, which removed the vehicle safety inspection as a prerequisite for registration and titling while still allowing the department to deter fraud by verifying the VINs of out-of-state vehicles. The adopted amendment also clarifies that if an applicant is registering or titling a vehicle in a county subject to emissions testing, the emissions testing requirements must be satisfied. An adopted amendment to §217.4(d)(5) deletes paragraphs (A) and (B) and re-organizes the rule accordingly. The adopted deletion of paragraphs (A) and (B) removes language that is unnecessary because it is duplicative of language in the Transportation Code. These amendments to §217.4 are adopted for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

An adopted amendment to §217.5(a)(1)(A) adds new requirements for a manufacturer's certificate of origin (MCO). Adopted new §217.5(a)(1)(A)(i) requires that a manufacturer's name be listed on the MCO, to eliminate confusion as to the name of the manufacturer when shortened versions or abbreviations of a manufacturer's name are printed on an MCO. Adopted new §217.5(a)(1)(A)(vi) requires that motor bus MCOs list seating capacity (number of passengers), to help the department quickly determine, based on the seating capacity, whether a vehicle should be registered or titled as a bus. The remainder of §217.5(a)(1)(A) is renumbered accordingly.

Section 217.5(a)(2) sets requirements for the evidence of motor vehicle ownership that must accompany an application for title on a used motor vehicle. The adopted amendment to §217.5(a)(2) deletes vague language relating to "other evidence of ownership" because the term is confusing and does not offer clear guidance to the public as to the type of ownership evidence that is acceptable to the department. Adopted new paragraphs §217.5(a)(2)(A) - (E) clarify the application requirements by listing the specific types of evidence of ownership that must be submitted as part of a title application, reflecting current department procedure. At adoption, the department corrected a capitalization error in the proposed text for §217.5(a)(2)(A).

An adopted amendment to §217.5(a)(4)(C)(ii) modernizes the rule by deleting a reference to "an original United States Customs stamp" that is not required under relevant statutes governing importation of motor vehicles. An adopted amendment to §217.4(a)(4)(C)(v) inserts a hyphen into the phrase "non United States" to correct a grammatical error.

An adopted amendment to §217.5(b)(4) changes the case of the term "Statement of Fact" from upper to lower case to correct a syntax error. An adopted amendment to §217.5(d)(1) removes "and expiration date" and replaces "document" with "current photo identification" to employ the adopted new defined term. An additional adopted amendment to §217.5(d)(1) deletes "concealed handgun license or," as this term is not used in the Texas Government Code. Another adopted amendment deletes the definition of "current" from §217.5(d)(4) because it is adopted into new §217.2(4). The remaining subsections of §217.5(d) are renumbered accordingly. The adopted amendments to renumbered §§217.5(d)(5) and (6) remove an inaccurate reference to Occupations Code, Chapter 2301 as the source of authority for issuing a general distinguishing number (GDN).

An adopted amendment to §217.6 adds a new subsection (d) clarifying the requirements for the department to place a hold on processing a title application under Transportation Code, §501.051(d). Adopted new §217.6(d)(1) clarifies the requirements for evidence of a legal action regarding ownership of a lien interest in a motor vehicle by specifying that the evidence must show a legal action that was filed in a district, county, statutory probate, or bankruptcy court. Adopted new §217.6(d)(1) allows the parties to maintain the status quo in a legal dispute over a motor vehicle by placing a hold on the transfer of the title until the dispute is resolved, without the necessity of obtaining a temporary injunction against the department. This enhances procedural efficiency for the department and saves resources for both the department and the parties involved in the legal dispute.

Adopted new §217.6(d)(2) clarifies that evidence of a legal action filed in a municipal or justice of the peace court is not sufficient evidence for a title processing hold unless the legal action is related to Code of Criminal Procedure, Chapter 47 or Government Code, §27.031. This adopted amendment makes the rule consistent with Transportation Code, §501.0521, which states that a justice of the peace or municipal court may not issue an order related to a motor vehicle title except in limited circumstances.

Adopted new §217.6(d)(3) clarifies that to qualify for a title processing hold, the legal action regarding ownership of or a lien interest in a motor vehicle must be active on a court's docket, and that evidence of a legal action that has been resolved through a final nonappealable judgment will not support placing of a title processing hold. Adopted new §217.6(d)(5) defines "final nonappealable judgment" as one for which 30 days have passed from the date of judgment without appeal, to eliminate ambiguity as to what constitutes a non-appealable judgment for the purposes of releasing a title processing hold. When there is a final nonappealable judgment, adopted new §217.6(d)(3) requires evidence of post-judgment legal action before the department can place a hold on processing a title. These adopted amendments make the department's procedures consistent with Transportation Code, §501.051(d), which states that a hold is terminated when a case is resolved by a final judgment.

Adopted new §217.6(d)(4) requires the department to place a ten-day temporary hold when a party submits the vehicle's VIN and an explanation that the hold is requested to commence legal action. This adopted amendment reflects the current department practice of providing a temporary 10-day processing hold to allow a party to time to file a lawsuit and to present evidence of the legal action to the department. The adopted amendment acknowledges that title or lienholders, who are challenging legal bonded title applications or engaged in other types of disputes related to their title or lien interests, need time to prepare a legal action. Adopted new §217.6(d)(4) requires a party to submit a VIN for the vehicle at issue because title processing holds are placed in the department's record system by VIN. Adopted new §217.6(d)(4) also requires a party to attest that the temporary hold is being requested in order to commence a legal action disputing a title or lien interest in a motor vehicle and not for pur-

poses of delay, to ensure that the temporary hold is in furtherance of Transportation Code, §501.051(d).

Adopted amendments to §217.7 implement the adopted new defined term "current photo identification" in §217.2(4) by adding it §217.7(b)(1) in place of "document," adding it to §217.7(b)(3)(A) - (C), and deleting the definition of "current" from §217.7(b)(4). The remaining subsections of §217.7(b) are renumbered accordingly. These adopted amendments improve readability of the rule and ensure consistent use of terminology throughout the subchapter. An adopted amendment to §217.7(b)(1)(F) deletes the phrase "concealed handgun license" because Government Code, Chapter 411 does not use the term "concealed handgun license" and this type of license is no longer required by law.

The adopted amendments to §217.8 implement HB 718, which amended Transportation Code, §501.147 to mandate that dealers holding a GDN submit notifications to the department of sales or transfers of motor vehicles to the dealer. An adopted amendment to §217.8(a) removes dealers that hold a GDN from the rule on voluntary notifications to the department since notification is now mandatory rather than voluntary under Transportation Code, §501.147, as amended by HB 718. Adopted new §217.8(b) requires dealers with a GDN to submit notifications to the department of sales or transfers of motor vehicles to the dealer, including all information required under Transportation Code, §501.147(b), as amended by HB 718. Adopted new §217.8(b) also clarifies that dealers with a GDN can submit the written notification to the department through a variety of methods, including electronically through the department's website portal, as is required by Transportation Code, §501.147, as amended by HB 718. The other subsections of §217.8 are renumbered accordingly to accommodate the addition of adopted new §217.8(b). An adopted amendment to prior §217.8(b) clarifies that dealers that hold a GDN are identified as transferors for purposes of the department updating its records documenting the vehicle transfer. These amendments to §217.8 are adopted for a future effective date of July 1, 2025, in accordance with the effective date of HB 718.

Adopted amendments to §217.9(a)(1) delete the phrase "and the surety bonding company ensures lien satisfaction or" and insert new language specifying that an applicant, rather than a surety bond company, must provide both a release of all liens and a bond. The adopted amendment conforms the rule with Transportation Code, §501.053(a)(3), which requires an applicant to produce a release of all liens with a bond and does not authorize a surety bond company to ensure lien satisfaction in lieu of a release of all liens from the relevant lienholders. An adopted amendment to §217.9(e)(7) deletes language related to certification of lien satisfaction by the surety bond company and a notice of determination letter. This adopted amendment makes the paragraph consistent with the adopted amendment to §217.9(a)(1) and conforms the rule to Transportation Code, §501.053(a)(3), which does not provide for certification of lien satisfaction by a surety bond company, but instead requires a release of all liens and a surety bond for an applicant to qualify for bonded title.

Adopted amendments to §217.11(a) delete unnecessary and duplicative language that simply repeats requirements from Transportation Code §501.051(b), and substitute citations to Transportation Code §501.051(b). The adopted amendments create new paragraph (b) from former paragraph (a)(5), delete language from former paragraph (a)(5) referring to language in paragraph (a)(3)(B) that is adopted for deletion, and add language to the adopted new paragraph (b) clarifying and restating the current requirement that an affidavit for recission must be accompanied by an odometer disclosure statement if the vehicle was ever in the possession of the title applicant. The adopted amendments also delete prior §217.11(b) because it refers to language in paragraph (a)(3)(B) that is adopted for deletion. The adopted amendments thus remove unnecessary language and improve readability.

An adopted amendment to §217.14 deletes the phrase "registered with the following distinguishing license plates" and replaces it with the "eligible for machinery license plates and permit license plate, in accordance with Transportation Code, §502.146." The adopted deletion clarifies that the exemption from titling for vehicles eligible for machinery license and permit plates is not limited to vehicles that have been registered and applies to all vehicles eligible for machinery license plates and permit license plates. An additional amendment deletes unnecessary language that is duplicative of statute.

An adopted amendment to §217.15(c) implements HB 3297 by replacing a reference to a "state inspection" fee with a broader reference to any fee "under Transportation Code, Chapter 548." The adopted amendment aligns the rule with HB 3297 which amended Transportation Code, Chapter 548 to eliminate the requirement for a state safety inspection. These amendments to §217.15 are adopted for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

An adopted amendment to §217.16(f)(4) implements HB 718 by replacing "buyer's temporary tag fee" with "fee associated with the issuance of a license plate or set of plates." The adopted amendment aligns the rule with HB 718, which amended Transportation Code Chapter 503 to eliminate buyer's temporary tags. The amendments to §217.16 are adopted for a future effective date of July 1, 2025, in accordance with the effective date of HB 718.

Subchapter B. Motor Vehicle Registration.

Adopted amendments to §217.22 add a new definition of "current photo identification" in new §217.22(11), using language that appears prior in §217.26(c) to allow the department the flexibility to accept government-issued photo identification as well as state-issued personal identification certificates that do not have expiration dates. At adoption, the phrase "within 12 months of the expiration date" to describe the definition of current photo identification" in new §217.22(11) was replaced with "expired not more than 12 months" in response to a public comment to make the definition clearer and provide for ease of reading.

Other adopted amendments to §217.22 delete the definition "legally blind" in §217.22(24) because it is not used in the subchapter, and delete the definition of "vehicle inspection sticker" in §217.22(47) to align with changes to the law to no longer require separate vehicle inspection stickers. The remaining subsections of §217.22 are renumbered accordingly. An adopted amendment to §217.22(27) adds a citation to Transportation Code, Chapter 503 for completeness, clarity, and ease of reference. An adopted amendment to §217.22(38) removes the phrase "under SA" to remove unnecessary and confusing wording. At adoption, a minor grammatical change was made to §217.22(11) and (22) by removing a space following the hyphens.

Adopted amendments to §217.23(b)(1) add a cross reference to §217.5, relating to Evidence of Motor Vehicle Ownership, for

clarity and ease of reference, and remove an unnecessary statutory reference.

Adopted amendments to §217.25 add a reference to Transportation Code, §502.145 to clarify that the statute creates an exception to the rule: Transportation Code, §502.145 allows a nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation to not register in Texas as long as the car's licenses in the owner's state of residence are valid.

Adopted amendments to §217.26(a) implement the adopted new defined term "current photo identification" in §217.22(11) by adding it to §217.26(a) in place of "document," adding it to §§217.26(b)(2)(B), 217.26(b)(3), and 217.26(b)(4)(B) in place of "government issued," deleting the definition of "current" from §217.26(c), and relettering the remaining subsections of §217.26 accordingly. An adopted amendment to §217.26(a)(6) deletes "concealed handgun license" from the list of acceptable forms of identification as this type of license is no longer required by law.

Adopted amendments to §§217.27(a)(1) add the defined term "vehicle registration insignia" for clarity and consistency and delete unused or archaic terms and references. At adoption and in response to a public comment, the phrase "the symbol, tab, or other device prescribed by and issued by the department" was replaced in §217.27(a)(2) with "the vehicle registration insignia," which is a defined term in §217.22, to align the use of that same phrase in §217.27(a)(1). Adopted amendments to §217.27(b) move the carve-out for a vehicle described by Transportation Code, §621.2061 to place the rear license plate so that it is clearly visible, readable, and legible, from paragraph (b)(1), which addresses vehicles that display two plates, to paragraph (b)(2), which addresses vehicles that only display one plate. This amendment acknowledges that vehicles described in Transportation Code, §621.2061 are carrying a load that obscures the license plate.

Adopted amendments to §217.27(c)(2)(A) implement HB 3297, which amended Transportation Code, §502.0024 to specify which vehicles may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration. The adopted amendments to §217.27(c)(2)(A) further implement HB 3297 by deleting outdated text that referenced vehicle inspections and sections of the Transportation Code that HB 3297 eliminated. Due to the adopted amendments implementing HB 3297, the amendments to §217.27 are adopted for a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

Adopted amendments to §217.27(d)(1)(2), (2)(A), (3), (e), (f), and (h) substitute the term "license plate number" for "alphanumeric pattern" to implement HB 718, which requires that the department issue license plates rather than temporary tags. An adopted amendment to §217.27(d)(1) substitutes the term "general issue" for the word "regular" to implement HB 718 with consistent terminology that distinguishes among types of license plates that the department will now issue.

The repeal of §217.28(e)(1) is adopted because the language is redundant with statute. The remaining sections are renumbered accordingly. Adopted amendments add new §217.28(e)(6) to clarify that the operation of a vehicle with an expired registration that has been stored or otherwise not in operation, that is driven only to an inspection station for the purpose of obtaining an inspection if required for registration, will not affect the determination of whether the registrant has a valid or invalid reason for being delinquent. This adopted amendment removes a deterrent to inspection and further clarifies when a vehicle will be assessed delinquency penalties.

Adopted amendments to §217.29 repeal §217.29(d) and §217.29(f) as these subsections are outdated and apply only to vehicle registrations expiring prior to January 1, 2017. The remaining subsections are adopted to be relettered accordingly. Adopted amendments to relettered §217.29(e) remove outdated language about vehicle registrations around January 1, 2017. Adopted amendments to relettered §217.29(f) modernize the rule by removing more outdated language about registration renewals in 2017, and by updating the wording to require the department and the department's third-party centralized vendor to promptly facilitate and mail vehicle registration insignias to applicants who submit registration renewals via the Internet.

Adopted new §217.31 is a standalone rule regarding the federal heavy vehicle use tax (HVUT) requirements, which are imposed by 26 U.S.C. §4481, et seq. and 26 C.F.R. Part 41. Although the Internal Revenue Service (IRS) collects the HVUT, the department requires compliance with the HVUT requirements prior to issuing vehicle registration for applicable vehicles, to prevent the state's loss of federal-aid highway funds under 23 U.S.C. §141(c) and 23 U.S.C. §104(b)(1). The department also complies with 23 C.F.R. Part 669, Federal Highway Administration (FHWA) regulations regarding the enforcement of the HVUT requirements via the vehicle registration process for a highway motor vehicle as defined by the federal law on the HVUT.

Adopted new §217.31 also incorporates by reference IRS regulation 26 C.F.R. §41.6001-2 regarding the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state as a condition of issuing a registration for a highway motor vehicle as defined by the federal law regarding the HVUT. Section 41.6001-2(c) states that proof of payment of the HVUT consists of a receipted Schedule 1 (Form 2290 "Heavy Vehicle Use Tax Return") that is returned by the IRS, by mail or electronically. Section 41.6001-2(c) also authorizes an acceptable substitute for a receipted Schedule 1. The IRS provides guidance on its website regarding Form 2290 for the collection of the HVUT. The IRS website for Form 2290 is located at the following address: https://www.irs.gov/forms-pubs/about-form-2290.

Although the department complies with the HVUT requirements for all applicable vehicle registrations, multiple rules in Chapter 217 reference the HVUT requirements. New §217.31 helps vehicle registration applicants find the applicable HVUT requirements because new §217.31 is titled "Heavy Vehicle Use Tax." Also, federal law imposes the requirements for the payment of the HVUT, as well as the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state.

Adopted amendments to §217.33 implement HB 718 by adding the word "license" before "plate" in several places in subparagraphs (a), (b), and (d) to improve readability through the use of consistent terminology.

The repeal of §217.34 is adopted to remove language that is redundant with statute.

Amendments to §§217.36(c)(1), 217.36(c)(4), and 217.36(c)(5) are adopted to modernize language and match current practices

by removing references to submitting information to the department on magnetic tape and replacing them with references to submitting information through the secure transfer portal.

Adopted amendments to §217.37 clarify that the department and the county will only charge fees provided by statute or rule. The adopted amendments repeal §217.37(b) because it is a restatement of the $2 fee for a duplicate registration receipt required in Transportation Code, §502.058(a).

Adopted amendments to §217.40 implement HB 718 by creating new plate types and ensuring consistency in the terminology used to refer to the new plates in rule. In accordance with the effective date of HB 718, the amendments to §217.40 are adopted for a future effective date of July 1, 2025. Adopted amendments to §217.40(a) implement HB 718 by updating terminology and adding "special registration license plates" in addition to "special registration permits."

Adopted amendments to §217.40(b)(1) add a statutory reference to Transportation Code, §502.434 and delete unnecessary language in §217.40(b)(1)(A) - (D) that is redundant with the statute to streamline the rule text and to improve readability and ease of reference. The remaining subsections in §217.40(b)(1) are relettered accordingly. Adopted amendments to §217.40(b)(2) add a reference to Transportation Code, §502.093 and delete unnecessary language in subparagraph (A) for ease of reference. An adopted amendment deletes §217.40(b)(2)(B) because it is redundant with statute, and the remaining subsections of §217.40(b)(2) are relettered accordingly. Adopted amendments to create new §217.40(b)(2)(C) implement HB 718 by specifying that the department will issue a license plate for an annual permit under Transportation Code, §502.093, and also provide a definition for the term "foreign commercial motor vehicle." Adopted amendments delete §217.40(b)(2)(C)(ii) because it is redundant with statute. Adopted amendments to §217.40(b)(3) clarify that 72-hour permits and 144-hour permits are governed in accordance with Transportation Code, §502.094 and delete existing language in subparagraphs (3)(A-D), and (4)(A-D) that is redundant with the statutory requirements, to streamline the rules and improve readability and consistency with other subsections.

Adopted new §217.40(c) implements HB 718 by providing for the issuance of various categories of special registration license plates and incorporates language that is currently §217.40(b)(5) - (6). An adopted amendment to renumbered §217.40(c)(1) implements HB 718 by substituting "license plates" for "permits," and removes unnecessary language that duplicates the requirements of Transportation Code, §502.095. The remaining subsections of §217.40(c) are relettered and renumbered accordingly. Adopted new §217.40(c)(1)(C) requires a one-trip license plate to be displayed as required by §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of reference, and consistency with other subsections.

Adopted amendments to prior §217.40(b)(6), adopted to be renumbered §217.40(c)(2), substitute "license plates" for "temporary registration permits" to implement HB 718, and remove language that is redundant of Transportation Code §502.095. An adopted amendment to adopted relettered §217.40(c)(2)(A) substitutes "license plate" for "temporary permit" and "30-day license plate" for "permit" to implement HB 718. Another adopted amendment to §217.40(b)(6), adopted to be relettered as §217.40(c)(2)(A), aligns the rule with statute by striking motorcycles from the list of the types of vehicles for which a 30-day license plate is available because Transportation Code §502.095 does not allow issuance of 30-day license plates to motorcycles. The remaining subsections are relettered accordingly. Adopted new §217.40(c)(2)(B) clarifies that a 30-day license plate must be displayed as required by §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of reference, and consistency with other subsections.

An adopted amendment to prior §217.40(c), which is adopted to be relettered as §217.40(d)(1), implements HB 718 by substituting the word "special" for "temporary" and adding "or special registration license plate" for consistency with other subsections. Adopted amendments to §217.40(d)(3)(A) delete unnecessary, redundant language. Adopted amendments to prior §217.40(c)(4)(B), which is adopted to be relettered as §217.40(d)(4)(B), delete temporary agricultural permits from being obtained through the county tax assessor-collectors' offices. This amendment implements HB 718 and aligns the rule with statute because HB 718 repealed Transportation Code, §502.092. Adopted amendments to adopted relettered §217.40(d)(4)(C) implement HB 718 by substituting "license plates" for "permits" and "temporary registration permits."

Adopted amendments to prior §217.40(d), which is adopted to be relettered as §217.40(e), implement HB 718 by adding "special registration" and "or special registration license plate" where "permit" appears throughout the subsection for consistency in the description of the new plate. The adopted amendments to prior §217.40(d) delete unnecessary language that is redundant with statute. Adopted amendments to prior §217.40(e), which is adopted to be relettered to §217.40(f), implement HB 718 by replacing "temporary" with "special registration" and adding "or special registration license plates" wherever "permit" appears throughout the subsection, for consistency in the description of the new plate.

Adopted amendments to §217.41(b)(2)(A) replace "regular motor vehicle license plates" with "general issue license plates" to implement HB 718, modernize language and improve readability through the use of consistent terminology. Adopted amendments to §217.41(b)(3) update applicable statutory references governing the issuance of windshield disabled parking placards.

Adopted amendments to §217.43 add the word "license" in multiple places to improve readability through consistent terminology.

Adopted amendments to §217.45(b)(2)(B) remove language that is redundant with statute. Adopted amendments to §217.45(b)(4) add the word "license" to modify "plate" in several places to implement HB 718 with consistent terminology. Adopted amendments to §217.45(c)(2)(A)(iii) implement HB 718 by replacing "alpha numeric pattern" with "license plate number" to modernize language and improve readability with consistent terminology. Adopted amendments to §§217.45(c), (d), (e), (f), (h), and (i) implement HB 718 with consistent terminology by adding "license" to modify "plate" in multiple places.

An adopted amendment to §217.46(a) clarifies that a motor vehicle is required to register as a commercial vehicle if it meets the definition under Transportation Code, §502.001(7) and deletes unnecessary language that repeats the statutory requirements. An adopted amendment to §217.46(b)(3)(A) deletes the words "and full trailers" because Transportation Code, §502.255 only authorizes a truck-tractor or commercial motor vehicle with a combination license plate to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds. Although Transportation Code, §502.255(e) says that for registration purposes, a semitrailer that has been converted to a

trailer by means of an auxiliary axle assembly retains its status as a semitrailer, this exception under §502.255(e) is already addressed in §217.46(b)(3)(B). Another adopted amendment to §217.46(b)(3)(A) also clarifies that a truck or truck-tractor displaying a combination license plate issued under Transportation Code, §502.255 may only pull a semitrailer issued a license plate from another state to the extent authorized under a registration reciprocity agreement under Transportation Code, §502.091. Transportation Code, §502.255 regarding combination license plates does not authorize a truck or truck-tractor with a combination license plate to pull a semitrailer with a license plate issued by another state; however, Transportation Code, §502.091 provides such authority if there is a registration reciprocity agreement that authorizes it.

Adopted amendments to §217.46(b)(3)(A)(i) and (ii) modify the language because Transportation Code, §502.255(a) requires the truck or truck tractor in the combination to have a gross weight of "more than 10,000 pounds," which means a truck or truck-tractor that has a gross weight of 10,000 pounds or less does not qualify for registration under Transportation Code, §502.255. Adopted amendments to §217.46(b)(3)(A)(ix) replace "temporary" with "special registration," replace "permits" with "special registration license plates," and replace "permits" with "license plates" to improve readability through consistent terminology. An adopted amendment to §217.46(b)(3)(B) deletes the word "full" from the term "full trailers" because the language summarizes the authority under Transportation Code, §502.255(e) for a semitrailer that has been converted to a trailer by means of an auxiliary axle assembly to retain its status as a semitrailer. Transportation Code, §502.001 defines the word "trailer," but does not define the term "full trailer." Therefore, the adopted amendment deletes the word "full" from the term "full trailers" to provide clarity. An adopted amendment to §217.46(b)(3)(D)(iii) adds the word "license" to modify "plates," to improve readability and clarity through consistent terminology. An adopted amendment deletes §217.46(b)(6) because in transit license plates under Transportation Code, §503.035 are addressed under 43 TAC §215.143. The remaining paragraphs of §217.46(b) are adopted to be renumbered accordingly.

An adopted amendment to renumbered §217.46(b)(7)(A) replaces the word "required" with the word "authorized" because a token trailer license plate is available for semitrailers that qualify for a token trailer license plate under the law. An adopted amendment to renumbered §217.46(b)(7)(B) deletes language regarding an exemption under Transportation Code, §502.094 because Transportation Code, §502.001(40) and §502.255 do not provide an exemption. Transportation Code, §502.001(40) defines a token trailer and states that a token trailer is only authorized to be operated in combination with a truck or truck-tractor that has been issued an apportioned license plate, a combination license plate or a forestry vehicle license plate. Transportation Code, §502.001(40) does not list a truck or truck-tractor registered with a special registration permit under Transportation Code, §502.094, so a special registration permit under Transportation Code, §502.094 may not be used to increase the combined gross weight of a truck or truck-tractor to pull a token trailer, even if the truck or truck-tractor is registered for a lower combined gross weight under one of the types of registration referenced in Transportation Code, §502.001(40). If the truck or truck-tractor is only authorized to operate at a higher combined gross weight (combined gross weight of the truck or truck-tractor and the token trailer) because of the authority under Transportation Code, §502.094 for a 72- or 144-hour permit, then the truck or truck-tractor is operating under the registration authority under Transportation Code, §502.094, rather than the registration authority of a registration type referenced in Transportation Code, §502.001(40). However, a vehicle combination may be eligible under Transportation Code, Chapters 621 through 623 to operate at a higher gross weight than a registered gross weight of 80,000 pounds provided the vehicle combination is operated in compliance with such laws, but provisions in Transportation Code, Chapters 621 through 623 might require such vehicle combination to operate at less than 80,000 pounds gross weight even if the combination is registered for 80,000 pounds gross weight. Vehicle registration is a different issue than maximum weight authorized under Transportation Code, Chapters 621 through 623. Also, Transportation Code, §623.011 is not the only statute in Transportation Code, Chapter 623 that might authorize the vehicle combination to exceed 80,000 pounds gross weight. For these reasons, an adopted amendment to renumbered §217.46(b)(7)(B) replaces the reference to Transportation Code, §623.011 with a reference to Transportation Code, Chapters 621 through 623.

Adopted amendments to renumbered §217.46(b)(7)(D) change the catchline from "Full trailers" to "Trailer" and delete the word "full" from the term "full trailer" because Transportation Code, §502.255 only authorizes a semitrailer to be eligible for a token trailer license plate, and Transportation Code, §502.001 defines the word "trailer," but does not define the term "full trailer." §217.46(b)(3)(B) already includes the exception under Transportation Code, §502.255(e), which says that for registration purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer. An adopted amendment to renumbered §217.46(b)(7)(D) also replaces the word "will" with the word "shall" before the word "not" because Government Code, §311.016 defines the word "shall" to impose a duty. Because Transportation Code, §502.255 does not authorize the department to issue a token trailer license plate for a trailer, this adopted amendment to renumbered §217.46(b)(7)(D) clarifies that the department is prohibited from issuing a token trailer license plate for a trailer. Government Code, Chapter 311 applies to each rule adopted under a code, such as the rules under Chapter 217.

An adopted amendment to §217.46(c)(1) clarifies that an applicant shall apply to the appropriate county tax assessor-collector or the department, as applicable, for commercial license plates. An adopted amendment to §217.46(c)(3)(B)(ii) clarifies the reference to the laws regarding overweight vehicles. An adopted amendment to §217.46(c)(4) provides an option to establish ownership of a vehicle by securing a bond if no VIN or serial number can be identified, to give vehicle owners flexibility with more avenues to establish ownership.

Adopted amendments to §217.46(c)(5)(C) clarify the sentence and remove an outdated reference to an international stamp under Chapter 218 of Title 43. Transportation Code, §502.046 says that evidence of financial responsibility as required by Transportation Code, §601.051, other than for a trailer or semitrailer, shall be submitted with the application for registration under Transportation Code, §502.046. If the vehicle is registered in compliance with Chapter 218, this is evidence that Transportation Code, §601.051 does not apply because Transportation Code, §601.007(c) says that Transportation Code, Chapter 601 (other than §601.054) does not apply to a motor vehicle that is subject to Transportation Code, Chapter 643. If Transportation Code, Chapter 643 requires a motor carrier to register its vehicle under Chapter 643, the motor

carrier must obtain such registration under 43 TAC Chapter 218 and Transportation Code, Chapter 643. The reference to registration under Chapter 218 is a reference to operating authority, rather than vehicle registration as provided under Transportation Code, Chapter 502.

Adopted amendments to §217.46(c) delete paragraphs (6) and (7) because the department is adopting new §217.31, which provides the HVUT requirements. Federal law imposes the requirements for the payment of the HVUT, the circumstances under which a state must require proof of payment of the HVUT and the required manner in which such proof of payment must be received by a state. Adopted new §217.31 cites to the applicable federal law regarding the HVUT and incorporates the applicable IRS regulation by reference.

Adopted amendments to §217.46(d)(1) delete language regarding fixed five-year vehicle registration terms for rental trailers and token trailers because the language is not supported by statute. Transportation Code 502.0024(a), as amended by HB 3297, states, "Payment for all applicable fees...for the entire registration period is due at the time of registration." Also, Transportation Code, §502.0024 authorizes the applicant to choose a registration term up to five years. Further, HB 2357, 82nd Legislature, Regular Session (2011) deleted language regarding a five-year registration period for a token trailer. In addition, the department does not require trailers that are registered under Transportation Code, §502.0024 to have a March 31st expiration date, unless the registration term begins on April 1st.

An adopted amendment to §217.46(e)(1) adds the word "license" to modify "plates" for improved readability and clarity through consistent terminology. In accordance with the effective date of HB 718, the amendments to §217.46 are adopted for a future effective date of July 1, 2025.

An adopted amendment to §217.50 adds the word "license" to modify "plate" for improved readability and clarity through consistent terminology. Another adopted amendment to §217.50 deletes the definition of highway construction project to remove unused, archaic language.

Adopted amendments to §217.51 add the word "license" to modify "plate" for improved readability and clarity through consistent terminology.

Adopted amendments to §217.52 add the word "license" to modify "plate" in multiple places to implement HB 718, and for improved readability and clarity through consistent terminology. In addition, adopted amendments to §217.52(e)(3) add the word "special" and the term "specialty license plate" to implement HB 718 and clarify with consistent terminology. Adopted amendments to §217.52(h)(7) remove references to "alphanumeric patterns" and instead use "department-approved alpha numeric license plate numbers" to implement HB 718 with consistent terminology. Amendments are also adopted for §217.52(h)(7) to replace the word "pattern" with "license plate number" and to add the word "license" to modify "plate" to implement HB 718 with consistent terminology. Additionally, adopted amendments to §217.52(h)(9) add the word "license" to modify "plates" in several places to use consistent terminology for clarity. Amendments are adopted to §217.52(k) to add "specialty" to modify "license plate" for clarity with consistent use of terminology, and to replace "will need to be remanufacturered" with "may be remanufactured" for clarity and to provide flexibility. Adopted amendments to §217.52(k)(5) add "to law enforcement" to clarify where license plate numbers and license plates must be reported stolen. Adopted amendments to §217.52(l)(1) create consistent use of the term "specialty license plates" throughout the section to implement HB 718 and to align with the terminology used in other provisions of this chapter. An adopted amendment to §217.52(l)(1)(B) deletes the word "particular" as unnecessary language. Adopted amendments to §217.52(l)(2) update terminology by adding "specialty license plate" number and "license plate" to replace "pattern" and "alphanumeric pattern" to implement HB 718 and to be consistent in the use of terminology throughout the chapter. Adopted amendments to §217.52(m) add the word "license" to modify "plates" in multiple places to implement HB 718 and to create consistency in terminology for clarity. Adopted amendments to §217.52(n)(1)(A) clarify, implement HB 718, and create consistent use of terminology by replacing "pattern is an auction pattern" with "license plate number was purchased through auction." In accordance with the effective date of HB 718, the amendments to §217.52 are adopted for a future effective date of July 1, 2025.

Adopted amendments to the §217.53 section title substitute the word "disposition" for "removal" and add "or transfer" to implement HB 718 by broadening the heading language to incorporate allowing license plates to remain with the vehicle when it is sold or transferred, while the registration insignia is removed and disposed of. Adopted amendments to §217.53(a) implement Transportation Code, §502.491 and §504.901, as amended by HB 718, clarifying that upon the sale or transfer of a motor vehicle to a dealer that holds a GDN, general issue license plates shall be removed and retained for issuance to a subsequent purchaser or transferor of that motor vehicle and the registration insignia shall be removed and disposed of by the dealer.

At adoption, §217.53(a) was modified in response to a public comment by substituting a reference to §215.151(d) for the proposed broader references to the Transportation Code and to another rule in Chapter 215, and by removing a vague statement about license plates transferring with the motor vehicle in a nonretail sale. Section 215.151(d) specifically addresses the disposition of general issued license plates upon a subsequent retail or nonretail sale of a motor vehicle by a dealer to an in-state or out of state purchaser. This modification will align §217.53(a) with §215.151(d) as to the disposition of general issue license plates for motor vehicles purchased and sold by dealers.

Adopted amendments to §217.53(b) implement Transportation Code, §502.491(b) and §504.901(b), as amended by HB 718, by clarifying that upon the sale or transfer of a motor vehicle in which neither party is a dealer, the registration insignia and the general issue license plates remain with the motor vehicle. At adoption, the proposed language of §217.53(b) was modified to remove references to registration insignia and to Transportation Code, §502.491(b). These changes at adoption align the adopted rule with Transportation Code, §502.491(a), which requires removal of registration insignia at the time of sale.

Adopted new §217.53(c) implements HB 718 and mitigates the risk of license plate fraud by requiring that a license plate other than a general issue license plate shall be removed by the owner of a motor vehicle that is sold or transferred, and that removed license plates may be transferred if eligible. Otherwise, such plates must be disposed of in a manner that renders the license plate unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle. The adopted amendments delete prior §217.53(c) to remove language that is redundant with statute. Adopted amendments create new §217.53(d) to implement HB 718 and to mitigate the risk of license plate

fraud by requiring that a retail purchaser who chooses to obtain replacement general issue license plates dispose of the replaced license plates in a manner that renders the license plates unusable. In accordance with the effective date of HB 718, the amendments to §217.53 are adopted for a future effective date of July 1, 2025.

Adopted amendments to §217.54(c)(2)(F) and §217.54(j) modify language to implement HB 3297 by replacing language regarding the state's portion of the inspection fee with language regarding any fee that is required to be collected at the time of registration under Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0023 and on an annual basis thereafter for the remainder of the registration term.

An adopted amendment to §217.55(a) uses consistent terminology for clarity by adding the word "license" to modify "plate" in several places. Adopted amendments to §217.55(b)(5) update the language and correct a cross-reference to clarify that an affidavit for alias exempt registration must be accompanied not by a regular title application, but instead by the specific, separate application required by the department to create the alias record of vehicle registration and title as outlined in §217.13, relating to Alias Certificate of Title. Adopted amendments to §217.55(e)(3) and §217.55(e)(6) modify the language to implement HB 3297 by replacing language regarding the state's portion of the inspection fee with language regarding any fee that is required to be collected at the time of registration under Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0025 and on an annual basis thereafter for the remainder of the registration term.

Adopted amendments to §217.56(b)(5) update terminology by replacing "rejection letters" with "notices of determination" to better describe the department's processes. An adopted amendment to §217.56(b)(6) deletes the word "permit" in accordance with the implementation of HB 718.

An adopted amendment to §217.56(c)(2)(B) incorporates by reference the January 1, 2024, version of the International Registration Plan (IRP). Texas is bound by IRP, which is a vehicle registration reciprocity agreement between the 48 contiguous states, the District of Columbia, and the Canadian provinces. Section 217.56 must incorporate the latest edition of IRP because it contains language regarding the nature and requirements of vehicle registration under IRP. Texas is a member of IRP, as authorized by Transportation Code, §502.091 and 49 U.S.C. §31704, and must comply with the current edition of IRP. The jurisdictions that are members of IRP amended the January 1, 2022, version of IRP to create the January 1, 2024, version of the IRP. An adopted amendment to §217.56(c)(2)(B) also provides the online address where one can obtain a copy of the January 1, 2024, version of the IRP, as well as the January 1, 2016, version of the IRP Audit Procedures Manual and prior versions of both of these IRP documents. Because the department adopted documents by reference into an administrative rule, 1 TAC §91.40(e) requires the department to maintain and distribute a copy of the documents to interested parties. In addition, adopted amendments to §217.56(c)(2)(B) move the rule text regarding a request to the department for a copy of the documents and delete rule text regarding the review of the IRP documents in the department's Motor Carrier Division, which allows the department to comply with 1 TAC §91.40(e) in the most efficient manner.

An adopted amendment to §217.56(c)(2)(M)(v) replaces "TxIRP" with "TxFLEET" because the department rebranded the TxIRP system as the TxFLEET system, which the department launched on September 16, 2024. The department will refer to the system as the TxFLEET system throughout this preamble, except when summarizing an adopted amendment that replaces "TxIRP" with "TxFLEET."

Subchapter C. Registration and Title Systems

Adopted amendments to §217.71(a)(3) delete the phrase "for users who opt" as all dealers will be required to use webDEALER to submit title and registration applications effective July 1, 2025.

Adopted amendments to §217.74 implement Transportation Code, §520.0055, created by HB 718, which requires all motor vehicle dealers to use the webDEALER system to submit title and registration applications for purchasers after July 1, 2025. An adopted amendment to the title of §217.74 revises the section title to "webDEALER Access, Use, and Training" to accurately reflect the scope of the section. Adopted amendments to §217.74(c) implement HB 718 by making it required, rather than discretionary, for all motor vehicle dealers who hold a GDN to get access to webDEALER, and by requiring that all active holders must obtain access to webDEALER prior to July 1, 2025. To ensure that all dealers are able to meet the deadline of July 1, 2025, adopted amendments to §217.74(c) allow the department to provide dealers access to webDEALER in the county where the dealer is located without waiting for a county tax assessor-collector to process the dealer's application and provide access. Adopted amendments to §217.74(e) add an "entity" to the webDEALER users that may have their authorization to use webDEALER revoked, rescinded, or cancelled to allow the department to cancel the access of tax assessor-collectors and their deputies or employees who abuse their access to webDEALER to perpetuate fraud or other wrongdoing.

Adopted new §217.74(g) requires all existing webDEALER users who process title and registration transactions through webDEALER complete training by April 30, 2025, and all new webDEALER users created on or after April 30, 2025, complete webDEALER training before being given webDEALER permissions. New adopted §217.74(g)(1) provides that the required webDEALER training will include, at a minimum, training regarding transactions performed in webDEALER and proper use of the system. The adopted amendments to new §217.74(g)(2) provide for an exemption from webDEALER training for users who have had access to webDEALER for more than six months and who have submitted more than 100 transactions within the system as of October 1, 2024. At adoption, the first paragraph of 217.74(g) was amended to clarify that the training is for individual users of webDEALER under a holder's account, but is not required of individual license holders who do not personally enter transactions into webDEALER and instead have employees that will be trained as users of webDEALER. Also at adoption, new §217.74(g)(2) was amended to replace "holder" with "user" to ensure that all new users of webDEALER, including those accessing webDEALER under an experienced holder's account, must receive training before accessing webDEALER. The adopted amendments to new §217.74(g)(3) provide that the failure of holders and users to complete the required webDEALER training shall result in denial of access to webDEALER. These adopted amendments to §217.74 implement HB 718 by ensuring that webDEALER users are appropriately trained and given access to the webDEALER system before the July 1, 2025, effective date for mandatory webDEALER use by all dealers.

Adopted amendments delete §217.75(c)(5), which references training required by August 31, 2020, because it is outdated. The remaining subsections in §217.75 are renumbered accordingly. Adopted amendments to renumbered §217.75(c)(5) remove "after August 31, 2020" because it is outdated and unnecessary.

Subchapter D. Nonrepairable and Salvage Motor Vehicles.

Adopted amendments throughout the entire Subchapter D eliminate the hyphen for the term "non-repairable" to align with the use of that same term in Transportation Code, Chapter 501 and maintain consistency. Additional adopted amendments throughout the subchapter add the phrase "nonrepairable or salvage record of title" to each mention of nonrepairable or salvage vehicle title to account for the department's statutory authority under Transportation Code, Chapter 501 to issue electronic titles for nonrepairable and salvage motor vehicles and the department's current practice of issuing electronic versions of nonrepairable and salvage vehicle titles in lieu of paper titles at the request of applicants.

Adopted amendments to §217.81 clarify wording by replacing "certificates of" with "titles" and adding "motor" to describe nonrepairable, salvage and rebuilt salvage motor vehicles. The adopted changes provide consistency in the terms used throughout §217.81 to describe the purpose and scope of the subchapter. At adoption, the department eliminated the hyphen in the term "non-repairable" in §217.81 to maintain consistency with the use of that same term elsewhere in this chapter and in Transportation Code, Chapter 501.

Adopted amendments to §217.82 define terms with the definitions of those same terms provided in Transportation Code, §501.002 and §501.091 for purposes of consistency: "casual sale," as defined in Transportation Code, §501.091(2); "certificate of title" as defined by Transportation Code, §501.002(1-a); "damage" as defined by Transportation Code, §501.091(3); "insurance company" as defined by Transportation Code, §501.091(5); "metal recycler" as defined by Transportation Code §501.091(7); "nonrepairable vehicle title" as defined by §501.091(10); "out-of-state buyer" as defined by Transportation Code, §501.091(11); "salvage vehicle dealer" as defined by Transportation Code, §501.091(17); and "salvage vehicle title" as defined by Transportation Code, §501.091(16). Adopted amendments to §217.82 create a new §217.82(15) and §217.82(23) to add the defined terms "nonrepairable record of title" and "salvage record of title," respectively. These terms are used throughout the subchapter and the adopted definitions align with their use and meaning in Transportation Code, Chapter 501. Prior §217.82(15) through §217.82(21) are renumbered accordingly based on the addition of adopted new §217.82(15). An adopted amendment to renumbered §217.82(19) deletes "certificate of" and "regular certificate of" from the defined term "Rebuilt salvage certificate of title" to account for the department's current practice of issuing electronic or paper titles and is consistent with the standalone term "title" that is defined in Transportation Code, Chapter 501 to encompass both electronic and paper versions of a motor vehicle title. An adopted amendment to renumbered §217.82(20) moves "is" under §217.82(20)(A) to §217.82(20)(A)(i) and deletes "damaged and" from §217.82(20)(A)(ii) to conform the definition of "salvage motor vehicle" to the definition of the same term provided in Transportation Code, §501.091(15), as the statutory definition does not specify that a salvage motor vehicle coming into the state on an out of state title to evidence damage. At adoption, minor grammatical changes were made to §217.82 by capitalizing the first word in each of the descriptions for the defined terms.

The adopted amendment to §217.83(a)(2) makes a minor change by substituting "any" for "alternate" to account for all methods developed and commonly used by insurance companies to assess the condition of a motor vehicle to determine if the motor vehicle should be classified as a nonrepairable motor vehicle. At adoption, a minor correction was made to §217.83(a)(2) by deleting a space left between "non" and "repairable" to make it one word, "nonrepairable." The adopted amendment to §217.83(b)(1) deletes "certificate of" as the term "certificate of title" is limited to paper titles, but the department issues both paper and electronic versions of titles that are more accurately captured with the standalone term of "title." The adopted repeal of prior §217.83(c)(1) eliminates text specifying a Texas title requirement for a motor vehicle retained by an owner that becomes classified as a nonrepairable or salvage motor vehicle, as this requirement conflicts with Transportation Code, §501.1002 where no such requirement is specified for an owner-retained motor vehicle. The adopted amendment to renumbered §217.83(c)(1) clarifies the method required for insurance companies to submit owner-retained motor vehicle notice forms to the department by specifying that it be submitted to the department through the department's electronic system known as webDEALER. The department's infrastructure and operations have been modernized and this adopted amendment provides guidance to insurance companies on the proper filing method for such forms. The adopted repeal of §217.83(c)(5) eliminates text that is duplicative of the text in §217.83(c)(3) and §217.83(c)(4) that prohibits the transfer of owner-retained motor vehicles that become classified as nonrepairable or salvage motor vehicles without owners first securing the respective titles for the motor vehicles. Adopted amendments to §§217.83(c)(2), 217.83(c)(3), 217.83(c)(4), and 217.83(c)(6) renumber those sections based on the adopted repeal of §§217.83(c)(1) and 217.83(c)(5).

The adopted amendment to §217.84(b)(8) deletes "certificate of" as part of the description of the application form to align with the defined terms for nonrepairable and salvage title specified in Transportation Code, §501.091 and §217.82 of this subchapter that do not include the term "certificate of." At adoption, the department withdrew the proposed amendment to §217.84(b)(5), in which the department had proposed language expanding the description of damage to a motor vehicle required for an application for a nonrepairable or salvage title. The proposed expanded language would have required the applicant to identify the major component parts that needed to be repaired or replaced on the vehicle. The department is withdrawing this proposed amendment to allow further time to make the technology enhancements required to implement such enhanced reporting.

The adopted amendments to §217.84(d)(1)(A) and (B) delete "certificate of" from "Texas Certificate of Title" to rephase the term as "Texas Title." The deletion of "certificate of" would align with the department's current practice of issuing both paper and electronic versions of titles that is more accurately captured with the standalone term "title," which is defined in Transportation Code, Chapter 501 to encompass electronic and paper titles. The adopted amendments to §217.84(d)(1)(E) and (F) add the phrase "or record of title" to account for the electronic versions of a title for a nonrepairable or salvage motor vehicle. The adopted amendment to §217.84(d)(3) deletes the words "vehicle title" from "salvage vehicle title" to create a new phrase of "salvage or nonrepairable vehicle title," which is used throughout the

subchapter for ease of reading. The adopted amendment to §217.84(d)(4) deletes the text and replaces it with a reference to Transportation Code, §501.0935, as the deleted text is duplicative of the text in statute and is therefore unnecessary. The adopted amendment to §217.84(f)(3)(B) deletes "certificate of" from the term "regular certificate of title" to be consistent with term "regular title," as specified in Transportation Code, §501.9112(b)(A).

The adopted amendment to §217.85(b) deletes "certificate of" as the term "certificate of title" is limited to paper titles, but the department issues both paper and electronic versions of titles that is more accurately captured with the standalone term of "title."

The adopted amendments to §217.86 create a new §217.86(d) that requires a receipt from the department evidencing the surrender of ownership documents for a vehicle transferred to a metal recycler as specified in §217.86(c) and a department-prescribed form detailing the transfer. The adopted amendment ensures vehicles delivered to metal recyclers follow the requirements set out in §217.86(a) - (c) as a prerequisite to their dismantling, scrapping or destruction, as well as to ensure proper documentation of the transfer and surrender of the receipt for purposes of reporting such information to the department by the metal recycler. The adopted amendments to §§217.86(d), 217.86(e) and 217.86(f) re-letter the provisions to §§217.86(e), 217.86(f) and 217.86(g) based on the addition of adopted new §217.86(d). Also, an adopted amendment to prior §217.86(f) clarifies that the 60-day period for reporting to the department the delivery of a vehicle for dismantling, scrapping or destruction, begins upon the delivery of the vehicle to the metal recycler to be consistent with the deadline set out in Transportation Code, §501.107.

The adopted repeal of §217.87 eliminates text that is duplicative to Transportation Code, §501.09111 and is therefore unnecessary.

The adopted amendment to §217.88(a) adds the phrase "Sale, transfer or release with" to the title of the subsection to clarify its scope. The adopted amendments to §217.88(b) add the phase "Sale, transfer or release without" to the title of the subsection to clarify its scope. Adopted amendments to §217.88(b) also delete the remaining text for the subsection and replace it with a reference to Transportation Code, §501.095(a), because the deleted text is duplicative to the text in statute and is therefore unnecessary. The adopted amendment to §217.88(d) incorporates a reference to Transportation Code, §501.091(2)(A-C) to exempt those persons not subject to the numerical limit for casual sales. This adopted amendment acknowledges these persons or entities are not subject to the limitations of the rule provided the sales are consistent with the requirements specified in the statute. The adopted amendment to §217.88(e)(1)(D) deletes the existing description for a photo identification and adds a reference to the list of current photo identifications provided in §217.7(b). The adopted amendment provides consistency throughout Chapter 217 as to what forms of current photo identification are acceptable to the department for purposes of the titling and/or registration of motor vehicles. The adopted amendment to §217.88(g)(1) adds a three-year retention requirement for export-only sales records to align with the records retention requirement specified in Transportation Code, §501.099(g). The adopted amendment to §217.88(g)(2)(C) deletes the existing description for a photo identification and adds a reference to the list of photo identifications provided in §217.88(f)(1)(B). The adopted amendment provides consistency as to what photo identifications are acceptable to the department for purposes of export-only sales of motor vehicles. The adopted amendments to §217.88(g)(2)(E) delete certain data collection items from the export-only sale list and renumber the list accordingly, to align with the requirements provided in Transportation Code, §501.099(g)(2).

Adopted amendments throughout §217.89 delete the words "certificate of" from the phrase "rebuilt salvage certificate of title" to read "rebuilt salvage title". These adopted amendments account for the department's current practice of issuing electronic or paper titles and is consistent with the standalone term "title" that is defined in Transportation Code, Chapter 501 that encompasses electronic and paper versions of a motor vehicle title. The adopted amendments to §§217.89(a), 217.89(d), 217.89(f), and 217.89(g) delete "certificate of" from the phrase "certificate of title" as the term "certificate of title" is limited to paper titles, while the department issues both paper and electronic versions of titles, which are more accurately captured with the standalone term of "title." The adopted repeal of §217.89(d)(3), which required the submission of a motor vehicle safety inspection, is necessary to comply with amendments to Transportation Code, Chapter 548 as amended by HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state. Adopted amendments to §217.89(d)(4) through §217.89(d)(7) are renumbered accordingly based on the repeal of §217.89(d)(3). An additional adopted amendment to prior §217.89(d)(5) qualifies the requirement for submitting proof of financial responsibility in those instances where the vehicle is to be registered at the time of application. The adopted amendment clarifies that such proof is not required where the application seeks only to retitle the vehicle without registration. An additional adopted amendment to prior §217.89(d)(6) deletes the requirement for attaining a motor vehicle inspection report for vehicles last titled or registered in another state or country. The adopted amendment also clarifies the requirement for motor vehicles last titled or registered in another country to secure a VIN inspection and require those vehicles last titled or registered in another state to submit a form as referenced by §217.4(d)(4) that would self-certify the VIN. The adopted amendments to §217.89(d)(5) are necessary to comply with HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state. The amendments also ensure that motor vehicles being brought into the state from another state or country are in alignment with the statutory requirements set out for VIN inspections under Transportation Code, §501.030 and §501.032. The adopted amendment to §217.89(e)(1) adds the phrase "or record title" to account for the electronic version of a title for a salvage motor vehicle. The adopted amendment to §217.89(e)(2) substitutes "does" for "may" as it pertains to what is considered evidence of ownership for a rebuilt salvage motor vehicle. This adopted amendment conforms to the requirements set out in Transportation Code, Chapters 501 and 683 that prohibit the items listed in this subsection as qualifying as evidence of ownership for a rebuilt salvage motor vehicle. The adopted amendment to §217.89(g) deletes "on its face" as being unnecessary language. In accordance with the effective date of HB 3297, the amendments to §217.89 are adopted for a future effective date of January 1, 2025.

Subchapter E. Title Liens and Claims

An adopted amendment to §217.106 adds language providing a citation to Transportation Code, §501.115, which governs the time limits for a lienholder to provide a discharge of lien after receiving final payment. The adopted amendment to §217.106

adds clarity, ease of reference, and improved guidance to the public.

Subchapter F. Motor Vehicle Records

Adopted amendments to §217.122(b)(2) add a citation to Transportation Code, §730.003(5) to define "person" for clarity and consistency between the rules and statutes.

An adopted amendment to §217.123(b)(5) deletes a concealed handgun license as a method of current identification for a requestor of motor vehicle records as a concealed handgun license is no longer required by law. Adopted amendments to §217.123(c)(3) align this section with statute by requiring a law enforcement requestor seeking personal information from agency records to identify its intended use or the agency's incident or case number for which the personal information is needed. Adopted amendments create new §217.123(e)(1)(D) and (E) to require a requestor of the department's motor vehicle records to provide in its application for a service agreement, blank copies of agreements used by the requestor to release motor vehicle record information to third parties, and any additional material provided to third party requestors detailing the process in which they obtain motor vehicle record information and describing their limitations as how this information may be used, to ensure that requestors are in compliance with the limitations on the use of personal information under Transportation Code, Chapter 730. At adoption, §217.123(e)(1)(D) was modified in response to a public comment by clarifying that the requestor's application include blank versions of the agreements used by the requestor to release motor vehicle record information to third parties. This modification will avoid the disclosure of confidential or propriety information that could be contained in an actual agreement used by the requestor to release motor vehicle record information to third parties.

The remaining subsections of §217.123(e)(1) are adopted to be relettered accordingly. Adopted new §217.123(e)(2) clarifies that the department will not enter into a service agreement to release motor vehicle record information if it determines any of the information provided in an application is incomplete, inaccurate, or does not meet statutory requirement, to protect the confidentiality of motor vehicle records from misuse or inappropriate disclosure. Adopted new §217.123(f)(1)(D) and (E) require requestors of bulk records to provide in an application for a bulk contract blank copies of agreements used by the requestor to release motor vehicle record information to third parties, and any additional material provided to third party requestors detailing the process through which they obtain motor vehicle record information and describing their limitations as to how this information may be used, to ensure that requestors are in compliance with the limitations on the use of personal information under Transportation Code, Chapter 730. At adoption, §217.123(f)(1)(D) was modified in response to a public comment by clarifying that the requestor's application include blank versions of the agreements used by the requestor to release motor vehicle record information to third parties. This modification will avoid the disclosure of confidential or propriety information that could be contained in the actual agreements used by the requestor to release motor vehicle record information to third parties. The remaining subsections of §217.123(f)(1) are adopted to be renumbered accordingly. Adopted new §217.123(f)(2) provides that the department will not enter into a bulk contract to release motor vehicle record information if the department determines any of the information provided by a requestor is incomplete, inaccurate, or does not meet statutory requirements, to protect the confidentiality of motor vehicle records from misuse or inappropriate disclosure. The remaining subsections of §217.123(f) are adopted to be renumbered accordingly.

Adopted amendments to §217.124(e) delete "and" before "toll project entities" and add "and federal governmental entities" as being exempt from the payment of fees except for the fees listed in §217.124(d)(1), (6), or (8), to expedite and streamline the delivery of documents to federal government entities. Adopted amendments to §217.124(f) add an "a" before "reciprocity," delete the "s" in agreements, replace "other" with "another" before "governmental," and replace "entities" with "entity" to improve readability and to use consistent terminology.

An adopted amendment to §217.125(b)(2) adds the word "proof" where it was inadvertently left out of the rule to make the sentence comprehensible. Another adopted amendment to §217.125(b)(2) clarifies that a requestor who is not yet involved in litigation must provide proof that the request is in anticipation of litigation that would necessitate the release of the documents requested, to limit the unnecessary release of confidential motor vehicle records and the resulting potential for misuse of personal information. Adopted amendments to §217.125(b)(3), to further limit the inappropriate release of confidential motor vehicle records, replace the requirement that a requestor prove they are "in a researching occupation" with a more specific requirement that the requestor is "employed by an entity in the business of conducting research related to the requested information," and gives the department discretion to determine whether the employment is valid and the business research sufficiently related to the requested information.

An adopted amendment to §217.129(a) adds a citation to Transportation Code §730.005 and §730.006 for clarity and ease of reference. An adopted amendment to §217.129(c) adds "has previously been terminated" to align with the title of §217.130, relating to Approval for Persons Whose Access to Motor Vehicle Records has Previously Been Terminated.

An adopted amendment to §217.131 deletes prior §217.131(a) and combines the language "has previously received personal information from the department and" into renumbered §217.131(a) to streamline the rule and improve readability. The remaining subsections of §217.131 are adopted to be relettered accordingly.

Subchapter G. Inspections.

The adopted amendment to §217.143(c) adds a reference to Transportation Code, §731.102 to the inspection requirements for an assembled vehicle. This adopted amendment clarifies the minimum requirements set forth in statute that must be met to evaluate the function and structural integrity of an assembled vehicle. The adopted amendment to §217.143(g) substitutes "any applicable" for "an" as it pertains to an inspection or reinspection of an assembled vehicle under Transportation Code, Chapter 548. The adopted amendment is necessary to comply with amendments to Transportation Code, Chapter 548 by HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state.

Adopted amendments to §217.144 create new §217.144(b) and move the existing text in §217.144 under new §217.144(a). These amendments restructure §217.144 for ease of reading, to separate text addressing the training for inspectors from text addressing the outcome of identification number inspections. Adopted new §217.144(b) prohibits the department from titling or registering a motor vehicle where the inspector is unable

to ascertain the motor vehicle's make or year of manufacture and further prohibits a motor vehicle being classified as an assembled, homemade, or shop vehicle where the inspection is unable to determine the vehicle's make or year of manufacture. The adopted amendment clarifies the department's existing interpretation of Transportation Code, Chapter 501 and the department's existing practices and procedures for identification number inspections performed on motor vehicles that are subject to such inspections under Transportation Code, §501.032. The adopted amendments align those interpretations and practices to provide guidance to the public on the requirements and consequences associated with a motor vehicle's identity.

Subchapter H. Deputies.

An adopted amendment to §217.161 removes unnecessary transition language regarding a deputy appointed under Transportation Code, §520.0071, on or before December 31, 2016. HB 2202 and HB 2741, 83rd Legislature, Regular Session, 2013, added Transportation Code, §520.0071 and repealed Transportation Code, §§520.008, 520.009, 520.0091 and 520.0092, effective September 1, 2013. Both HB 2202 and HB 2741 stated that a deputy appointed under Transportation Code, §520.0091 on or before August 31, 2013, may continue to perform the services authorized under Transportation Code, §§520.008, 520.009, 520.0091 and 520.0092 until the effective date of rules adopted by the board regarding the types of deputies authorized to perform titling and registration duties under Transportation Code, §520.0071 as added by HB 2202 and HB 2741. The board adopted rules under Transportation Code, §520.0071, effective March 12, 2015; however, §217.161 authorized a deputy appointed under Transportation Code, §520.0071 on or before December 31, 2016, additional time to comply with the rules. All deputies were required to comply with the new and amended rules regarding deputies, beginning on January 1, 2017. An adopted amendment to §217.161 also removes the unnecessary reference to January 1, 2017.

An adopted amendment to §217.168(b)(1) adds the word "county" before the term "tax assessor-collector" to make the terminology consistent throughout Chapter 217. An adopted amendment to §217.168(b)(1) also creates a new subparagraph (A) for the second sentence in §217.168(b)(1) due to the adopted addition of new §217.168(b)(1)(B), which clarifies that title transaction fees collected by full service deputies authorized by a county tax assessor-collector can be assessed on webDEALER title transactions where the full service deputies have been approved by a county tax assessor-collector to approve title transactions through webDEALER. The adopted amendment is necessary to address and account for the influx of title transactions due to the new requirement of Transportation Code, §520.0055, as amended by HB 718, that dealers holding a GDN use webDEALER for filing title transactions.

An adopted amendment to §217.168(d) replaces terminology related to one-trip permits and 30-day permits under Transportation Code, §502.095 with terminology describing one-trip special registration license plates and 30-day special registration license plates, to implement the license plate requirements of HB 718. In accordance with the effective date of HB 718, the amendments to §217.168 are adopted for a future effective date of July 1, 2025. An adopted amendment to §217.168(d) also replaces the word "temporary" with the term "special registration" for consistency with the terminology in §217.40(b) regarding the category of "special registration permits" under Transportation Code, §502.094, which are called 72-hour permits and 144-hour permits. In addition, adopted amendments to §217.168(d) reduce the amount of the processing and handling fee that a full service deputy may retain for special registration permits and special registration license plates under Transportation Code, §502.094 and §502.095 from $4.75 to $4.25. These adopted amendments to §217.168(d) provide that $0.50 of the processing and handling fee be remitted to the department by citing to the formula established by §217.185(b), which the department is also adopting in this adoption. This adopted amendment to §217.168(d) is necessary for the department to comply with Transportation Code, §502.356, which requires the board by rule to adopt a fee (automation fee) of not less than $0.50 and not more than $1.00 that shall be collected in addition to registration fees and deposited into a subaccount in the Texas Department of Motor Vehicles fund. Section 502.356 specifies how the department may use the automation fee to provide for or enhance the automation of and the necessary infrastructure for certain services and procedures. The board established the automation fee at $0.50 under §217.72(c). Transportation Code, §502.1911(b) requires the board by rule to include the automation fee that is established under Transportation Code, §502.356 in the processing and handling fee for registration transactions. Therefore, $0.50 of each processing and handling fee must be remitted to the department.

Subchapter I. Fees.

An adopted amendment to Subchapter I updates the title of the subchapter by adding the words "Processing and Handling" to read "Processing and Handling Fees," to more accurately describe the content and scope of the subchapter. An adopted amendment to §217.181 replaces the word "fee" with the word "fees" because Subchapter I prescribes the department's processing and handling fees authorized by Transportation Code, §502.1911. Section 217.183 includes two processing and handling fees, which are more fully described in the summary of adopted amendments to §217.183. Adopted amendments to §217.181 also amend other words to ensure that there is subject-verb agreement between the word "fees" and the applicable verbs.

Adopted amendments to §217.182(1) add the term "special registration license plate" and the words "special registration" to modify the word "permit" to clarify that each constitutes a "registration transaction," and implement HB 718, which requires the department to issue license plates rather than paper permits, with consistent use of terminology across the chapter. In accordance with the effective date of HB 718, the amendments to §217.182 are adopted for a future effective date of July 1, 2025.

Adopted amendments to §217.183 clarify that the department charges two different processing and handling fees under Transportation Code, §502.1911: 1) a flat fee of $4.75 for a registration transaction that is processed outside of the department's TxFLEET system; and 2) $4.75 plus the applicable service charge for each registration transaction processed through the TxFLEET system. Transportation Code, §502.1911(b)(2) requires the board by rule to set the applicable processing and handling fee in an amount that is sufficient to cover the expenses associated with collecting the registration fees. The applicable service charge for a registration transaction processed through the TxFLEET system is the fee that the Texas Department of Information Resources (DIR) sets under Government Code, §2054.2591, which states that a state agency may charge such fee for a transaction that uses the state electronic Internet portal project. The department uses the state electronic Internet portal project for the payment engine for the TxFLEET system as

required by Government Code, §2054.113. The department must pass the DIR fee to the registration applicant to comply with Transportation Code, §502.1911(b)(2).

Although the department included the DIR fee in the processing and handling fee of $4.75 for a registration transaction that is processed outside of the TxFLEET system, the department did not include the DIR fee in the $4.75 charge that is a portion of the processing and handling fee for a registration transaction that is processed through the TxFLEET system. For a registration transaction that is processed through the TxFLEET system, the processing and handling fee consists of the $4.75 charge plus the DIR fee, which is generally represented by the following mathematical formula: 2.25 percent plus $0.25 for each credit card or debit card transaction processed. However, $0.25 is added to the amount of the underlying fee prior to multiplying that amount by 2.25 percent, and an additional $0.25 is added to that calculation to compute the DIR fee. For example, if the underlying fee is $100.00 (including the $4.75 charge), the DIR fee would be $2.51, which would result in a total cost of $102.51 for the registration transaction.

The registration fees for the vehicle registration transactions that are processed through the TxFLEET system are typically more expensive than vehicle registration transactions that are processed outside of the TxFLEET system. For example, Transportation Code, §502.0023 authorizes the extended registration of commercial fleet vehicles for up to an eight-year term for which the applicant must pay all registration fees, as well as all other applicable fees, for the selected term at the time of registration. In addition, a commercial fleet could include vehicles with a gross weight that exceeds 6,000 pounds. Transportation Code, §502.252 states that the fee for a registration year for registration of a vehicle with a gross weight of 6,000 pounds or less is $50.75, unless otherwise provided by Transportation Code, Chapter 502. Transportation Code, §502.253 provides a fee schedule for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds, unless otherwise provided by Transportation Code, Chapter 502. The fee schedule in Transportation Code, §502.253 provides a fee for seven different ranges of weight classifications based on pounds, starting with a fee of $54.00 for a vehicle that falls within the weight classification of 6,001 pounds through 10,000 pounds and ending with a fee of $840.00 for a vehicle that falls within the weight classification of 70,001 through 80,000 pounds. If an applicant wanted to register 12 fleet vehicles for a five-year term under Transportation Code, §502.0023, the DIR fee would greatly exceed $4.75.

Adopted amendments to §217.183 also separate the language by adding subsections (a) through (c) to provide clarity. Adopted new §217.183(a) contains the current language regarding the processing and handling fee that is $4.75 for a registration transaction that is not processed through the TxFLEET system. Adopted new §217.183(a) also clarifies that the language is subject to the language in new subsections (b) and (c). Adopted new §217.183(a) also modifies the rule text to state that certain registration transactions are exempted by §217.184. Adopted new §217.183(b) replaces the existing language with clarified language to describe the processing and handling fee that applies to a registration transaction that is processed through the TxFLEET system. Adopted new §217.183(b) also clarifies that it is subject to the language in new subsection (c) and the exemptions under §217.184. Adopted new §217.183(c) separates existing rule text that explains that the department shall only collect the processing and handling fee on the registration transaction if the transaction includes both registration and issuance of a license plate or specialty plate.

Adopted amendments to §217.184 replace the word "fee" with the word "fees" because Subchapter I prescribes the department's processing and handling fees authorized by Transportation Code, §502.1911. Section 217.183 includes two processing and handling fees, which are more fully described in the summary of adopted amendments to §217.183.

An adopted amendment to the title of §217.185 changes the word "Fee" to "Fees" and an adopted amendment to §217.185(a) changes the word "amount" to "amounts" because the department has two different processing and handling fees under §217.183. Adopted amendments to §217.185(a)(1) also combine language in §217.185(a)(1) and §217.185(a)(2) for consistency and ease of understanding without changing the meaning. An adopted amendment to prior §217.185(a)(2) deletes the paragraph to remove redundancy, and renumber the remaining paragraphs accordingly. An adopted amendment to renumbered §217.185(a)(2) replaces "TxIRP" with "TxFLEET" because the department rebranded the TxIRP system as the TxFLEET system, which the department launched on September 16, 2024. At adoption, the department deleted "or (d)(1)(B)(i)" in §217.185(a)(2) as a reference to §217.46(d)(1)(B)(i) since that provision is adopted for repeal.

An adopted amendment to renumbered §217.185(a)(3) replaces a reference to the department's online registration portal with a reference to Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS) because the department currently provides the $1 discount if the registration transaction was processed through either one of these systems.

An adopted amendment to §217.185(b) deletes the reference to Transportation Code, §502.092 because HB 718 repeals §502.092, effective July 1, 2025. An adopted amendment to §217.185(b) also clarifies the rule by specifying the allocation of the $4.75 processing and handling fee collected by entities that process applications for special registrations under Transportation Code, §§502.093 - 502.095. Adopted amendments to §217.185(b) further provide that the $0.50 remainder of the processing and handling fee be remitted to the department. This adopted amendment is necessary for the department to comply with Transportation Code, §502.356, which requires the board by rule to adopt an automation fee of not less than $0.50 and not more than $1.00 that shall be collected in addition to registration fees and deposited into a subaccount in the Texas Department of Motor Vehicles fund. Section 502.356 specifies how the department may use the automation fee to provide for or enhance the automation of and the necessary infrastructure for certain services and procedures. The board established the automation fee at $0.50 under §217.72(c). Transportation Code, §502.1911(b) requires the board by rule to include the automation fee that is established under Transportation Code, §502.356 in the processing and handling fee for registration transactions. Therefore, $0.50 of each processing and handling fee must be remitted to the department. Other amendments to §217.185(b) replace the word "temporary" with the words "special registration" to describe the referenced permit, and add the words "special registration license plate" to implement HB 718 and to ensure consistent use of terminology across the chapter. In accordance with the effective date of HB 718, the amendments to §217.185 are adopted for a future effective date of July 1, 2025.

Subchapter J. Performance Quality Recognition Program.

The adopted amendment to §217.205(e) replaces the current deadline of 90 calendar days for the department's decision to award or deny a service recognition in response to an application from a county tax assessor-collector's office by specifying a reoccurring annual deadline of December 31. The adopted amendment streamlines the department's process and allows the department more flexibility to address all submitted applications in a timely and efficient manner without sacrificing the quality of the review based on the current deadline structure.

Subchapter L. Assembled Vehicles

An adopted amendment to §217.404(a) deletes the phrase "prior to applying for title" because this phrase is unnecessary and clarifies that an application for title for an assembled vehicle is part of the process for an applicant applying for title. An adopted amendment to §217.404(b) adds the phrase "under Transportation Code, Chapter 731" to clarify that applications for assembled vehicles are required to comply with that chapter. At adoption, a minor correction was made to §217.404(b) by capitalizing the word "Code" that was proposed in lowercase text.

SUMMARY OF COMMENTS.

The department received four written comments on the proposal.

The department received written comments from one individual, the Texas Independent Automobile Dealers Association (TIADA), the Texas Automobile Dealers Association (TADA), and the Coalition for Sensible Public Records Access (CSPRA).

Comment: An individual commented that the phrase "within 12 months of the expiration date" within the definition of "current photo identification" in §§217.2(4) and 217.22(11) is confusing and suggests replacing the phrase with "or is expired not more than 12 months."

Response: The department agrees. The department modified the proposed language in §217.2(4) and §217.22(11) at adoption to address this concern by replacing "within 12 months of the expiration date" with "expired not more than 12 months" for clarity and ease of reading.

Comment: An individual commented that the phrase "the symbol, tab, or other device prescribed by and issued by the department" in §217.27(a)(2) should be replaced with "vehicle registration insignia" to align with the use of that same term in §217.27(a)(1), which is a defined term in §217.22.

Response: The department agrees. The department modified the proposed language in §217.27(a)(2) at adoption to address this concern by replacing "the symbol, tab, or other device prescribed by and issued by the department" with "the vehicle registration insignia" for consistent use of a defined term in the chapter.

Comment: An individual commented that since §217.4(d)(4) requires no physical documentation to comply with the vehicle inspection process under Transportation Code, Chapter 548, they request the department to make changes to webDEALER to allow dealers to comply with the VIN self-certification process electronically within webDEALER as opposed to completing and uploading the form in webDEALER.

Response: The department disagrees because this comment is outside the scope of this rulemaking process; however, the department will take the suggestion into consideration in the future development of webDEALER.

Comment: An individual commented that there is a potential conflict between §217.53(a) and §215.151(d) concerning the disposition of license plates because §215.151(d) directs a dealer to dispose of the existing license plates for a motor vehicle sold to an out of state buyer or sold by export and §217.53(a) directing the dealer to transfer the existing plates of sold motor vehicles without any specified exceptions. The comment further provided the rule did not seem to address situations of motor vehicles sold out of state through wholesale auctions or through dealer-to-dealer transactions.

Response: The department agrees. At adoption, the department modified §217.53(a) by incorporating a reference to §215.151(d) that addresses the disposition of general issue license plates upon a subsequent retail or nonretail sale of a motor vehicle by a dealer to an in-state or out of state purchaser. This modification will align §217.53(a) with §215.151(d) as to the disposition of general issue license plates for motor vehicles purchased and sold by dealers. The department anticipates future rulemaking prior to July 1, 2025, to clarify the procedures for the secure transfer of general issue license plates in the context of auction sales, after consulting with the department's advisory committees and seeking further stakeholder input.

Comment: An individual commented that §217.71(b)(7) references a nonexistent system, "webLIEN".

Response: The department agrees and acknowledges that webLIEN does not currently exist but that it represents a potential future deployment of online interface and should remain in §217.71(b)(7) as a placeholder. The webLIEN language was not proposed for amendment in this rulemaking.

Comment: TADA and TIADA commented that the webDEALER training requirements in §217.74(g) should be struck from the rule because dealers have already completed webDEALER training from alternative sources and would be unfairly penalized by having to complete a department required training program that would be duplicative of their previous training.

Response: The department disagrees. The adopted new language in §217.74(g) limits the required training to new dealers and those dealers lacking sufficient experience in processing transactions in webDEALER. A dealer who had access to webDEALER for more than six months prior to October 1, 2024, and submitted more than 100 transactions is exempt from the training requirement. The training requirements will ensure dealers have the knowledge and information they need to accurately enter transactions into webDEALER so that transactions can be efficiently reviewed and approved by the county tax assessor-collectors. To further assist dealers with these requirements, the department intends to expand accessibility to webDEALER training by offering 24/7 online access.

Comment: TADA commented that §217.74(g) should distinguish license holders who do not personally input transactions into webDEALER and instead employ staff to input the transactions from license holders who personally enter transactions into webDEALER. TADA commented that only those license holders personally entering transactions into webDEALER and staff entering transactions under a license holder's account should be required to be trained on webDEALER.

Response: The department agrees. At adoption, changes to the first paragraph of §217.74(g) and subsection §217.74(g)(2) clarify that only users entering data into webDEALER are required to complete webDEALER training.

Comment: TIADA commented that §217.40 should allow a dealer to apply for a temporary 30-day registration extension for the license plates issued by the dealer in lieu of applying for a 30-day license plate when the dealer is unable to timely obtain the permanent registration for a motor vehicle.

Response: The department disagrees. Transportation Code, §503.063, as amended by HB 718, provides that the license plates issued for a motor vehicle sold by a dealer are valid for the operation of the vehicle while the motor vehicle's application for registration is submitted by the dealer under Transportation Code, §501.0234 and is pending approval. Thus, an extension of registration is not necessary during the pendency of the application for registration nor is there a need to issue a 30-day license plate.

Comment: TADA commented that §217.36 should provide a specific reference to the exemption to registration refusals under Transportation Code, §702.003(f) to avoid any misunderstanding of the application of §217.36 by the department and/or county tax assessor-collectors.

Response: The department disagrees. §217.36 sufficiently addresses this concern by stating the refusal to register a motor vehicle must be in accordance with Transportation Code, §702.003. The reference to this statutory provision and requirement that the refusal to register be in accordance with this provision make clear that any exemption noted in the statutory provision prohibits such action by a county tax assessor-collector.

Comment: CSPRA stated the proposed language in Chapter 217, Subchapter F, requiring requestors to submit copies of the agreements they use to release motor vehicle record information to third parties, would disclose propriety information and is unnecessary given the assurances and prohibitions a requestor is obligated to comply with under Transportation Code, Chapter 730 concerning motor vehicle records.

Response: The department agrees. At adoption, §§217.123(e)(1)(D) and 217.123(f)(1)(D) were modified to clarify that the applications submitted by requestors include blank copies of the agreements used by requestors to release motor vehicle record information to third parties to avoid the disclosure of confidential or propriety information that could be contained in an actual agreement used by the requestor to release motor vehicle record information to third parties.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §§217.2, 217.3, 217.5 - 217.7, 217.9, 217.11, 217.14

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

§217.2. Definitions.

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

(1) Alias--The name of a vehicle owner reflected on a title, when the name on the title is different from the name of the legal owner of the vehicle.

(2) Alias title--A title document issued by the department for a vehicle that is used by an exempt law enforcement agency in covert criminal investigations.

(3) Bond release letter--Written notification from the United States Department of Transportation authorizing United States Customs to release the bond posted for a motor vehicle imported into the United States to ensure compliance with federal motor vehicle safety standards.

(4) Current photo identification--A government-issued photo identification that is currently valid or is expired not more than 12 months, or a state-issued personal identification certificate issued to a qualifying person if the identification states that it has no expiration.

(5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) Division director--The director of the department's Vehicle Titles and Registration Division.

(7) Executive administrator--The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city who by law possesses the authority to conduct covert criminal investigations.

(8) Exempt agency--A governmental body exempt by law from paying title or registration fees for motor vehicles.

(9) Federal motor vehicle safety standards--Motor vehicle safety requirements promulgated by the United States Department of Transportation, National Highway Traffic Safety Administration, set forth in Title 49, Code of Federal Regulations.

(10) Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner and when presented with an application for title showing on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(11) Moped--A motor vehicle as defined by Transportation Code, §541.201.

(12) Motor vehicle importation form--A declaration form prescribed by the United States Department of Transportation and certified by United States Customs that relates to any motor vehicle being brought into the United States and the motor vehicle's compliance with federal motor vehicle safety standards.

(13) Non-United States standard motor vehicle--A motor vehicle not manufactured in compliance with federal motor vehicle safety standards.

(14) Person--An individual, firm, corporation, company, partnership, or other entity.

(15) Safety certification label--A label placed on a motor vehicle by a manufacturer certifying that the motor vehicle complies with all federal motor vehicle safety standards.

(16) Statement of fact--A written declaration that supports an application for a title, that is executed by an involved party to a transaction involving a motor vehicle, and that clarifies an error made on a title or other negotiable evidence of ownership. An involved party is the seller, or an agent of the seller involved in the motor vehicle transaction. When a written declaration is necessary to correct an odometer disclosure error, the signatures of both the seller and buyer when the error occurred are required.

(17) Title application--A form prescribed by the division director that reflects the information required by the department to create a motor vehicle title record.

(18) Verifiable proof--Additional documentation required of a vehicle owner, lienholder, or agent executing an application for a certified copy of a title.

§217.5. Evidence of Motor Vehicle Ownership.

(a) Evidence of motor vehicle ownership properly assigned to the applicant must accompany the title application. Evidence must include, but is not limited to, the following documents.

(1) New motor vehicles. A manufacturer's certificate of origin assigned by the manufacturer or the manufacturer's representative or distributor to the original purchaser is required for a new motor vehicle that is sold or offered for sale.

(A) The manufacturer's certificate of origin must be in the form prescribed by the department and must contain, at a minimum, the following information:

(i) manufacturer's name on the face of the manufacturer's certificate of origin;

(ii) motor vehicle description including, but not limited to, the motor vehicle year, make, model, identification number, and body style;

(iii) the empty or shipping weight;

(iv) the gross vehicle weight when the manufacturer's certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term is defined in Transportation Code, Chapter 502;

(v) a statement identifying a motor vehicle designed by the manufacturer for off-highway use only;

(vi) if the vehicle is a motor bus, the manufacturer must show the seating capacity (number of passengers) of the motor bus on the manufacturer's certificate; and

(vii) if the vehicle is a "neighborhood electric vehicle," a statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500) for low-speed vehicles.

(B) When a motor vehicle manufactured in another country is sold directly to a person other than a manufacturer's representative or distributor, the manufacturer's certificate of origin must be assigned to the purchaser by the seller.

(2) Used motor vehicles. Applicants applying for title to a used motor vehicle must relinquish as evidence of ownership one of the following documents:

(A) a title issued by the department;

(B) a title issued by another state if the motor vehicle was last titled in another state;

(C) documents evidencing a transfer of motor vehicle ownership by operation of law as listed in Transportation Code §501.074;

(D) a registration receipt if the applicant is coming from a state that no longer titles vehicles after a certain period of time; or

(E) a bill of sale when the applicant presents:

(i) an out-of-state or out-of-country registration receipt that does not provide a transfer of ownership section;

(ii) an out of state title when all dealer reassignment sections have been completed and the issuing state does not utilize supplemental dealer reassignment forms; or

(iii) a non-titled vehicle.

(3) Evidence of Ownership for Purpose of Identification Number Assignment or Reassignment. An applicant for assignment or reassignment of an identification number under Transportation Code §501.033 who is unable to produce evidence of ownership under this section, may file a bond with the department in accordance with Transportation Code §501.053 and §217.9 of this title (relating to Bonded Titles). The bond will serve as evidence of ownership for purposes of §501.033(b).

(4) Motor vehicles brought into the United States. An application for title for a motor vehicle last registered or titled in a foreign country must be supported by documents including, but not limited to, the following:

(A) the motor vehicle registration certificate or other verification issued by a foreign country reflecting the name of the applicant as the motor vehicle owner, or reflecting that legal evidence of ownership has been legally assigned to the applicant;

(B) the identification number inspection required under Transportation Code §501.032(a)(2), except as provided in §501.032(b); and

(C) for motor vehicles that are less than 25 years old, proof of compliance with United States Department of Transportation

(USDOT) regulations including, but not limited to, the following documents:

(i) the original bond release letter with all attachments advising that the motor vehicle meets federal motor vehicle safety requirements or a letter issued by the USDOT, National Highway Traffic Safety Administration, verifying the issuance of the original bond release letter;

(ii) a legible copy of the motor vehicle importation form validated with a signature as filed with the USDOT confirming the exemption from the bond release letter required in clause (i) of this subparagraph, or a copy thereof certified by United States Customs;

(iii) a verification of motor vehicle inspection by United States Customs certified on its letterhead and signed by its agent verifying that the motor vehicle complies with USDOT regulations;

(iv) a written confirmation that a physical inspection of the safety certification label has been made by the department and that the motor vehicle meets United States motor vehicle safety standards;

(v) the original bond release letter, verification thereof, or written confirmation from the previous state verifying that a bond release letter issued by the USDOT was relinquished to that jurisdiction, if the non-United States standard motor vehicle was last titled or registered in another state for one year or less; or

(vi) verification from the vehicle manufacturer on its letterhead stationery.

(b) Alterations to documentation. An alteration to a registration receipt, title, manufacturer's certificate, or other evidence of ownership constitutes a valid reason for the rejection of any transaction to which altered evidence is attached.

(1) Altered lien information on any surrendered evidence of ownership requires a release from the original lienholder or a statement from the proper authority of the state in which the lien originated. The statement must verify the correct lien information.

(2) A strikeover that leaves any doubt about the legibility of any digit in any document will not be accepted.

(3) A corrected manufacturer's certificate of origin will be required if the manufacturer's certificate of origin contains an:

(A) incomplete or altered vehicle identification number;

(B) alteration or strikeover of the vehicle's model year;

(C) alteration or strikeover to the body style, or omitted body style on the manufacturer's certificate of origin; or

(D) alteration or strikeover to the weight.

(4) A statement of fact may be requested to explain errors, corrections, or conditions from which doubt does or could arise concerning the legality of any instrument. A statement of fact will be required in all cases:

(A) in which the date of sale on an assignment has been erased or altered in any manner; or

(B) of alteration or erasure on a Dealer's Reassignment of Title.

(c) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by a natural person acting in an individual capacity in accordance with Transportation Code, §501.031.

(d) Identification required.

(1) An application for title is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number. The current photo identification must be a:

(A) driver's license or state identification certificate issued by a state or territory of the United States;

(B) United States or foreign passport;

(C) United States military identification card;

(D) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(F) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(2) If the motor vehicle is titled in:

(A) more than one name, then the identification of one owner must be presented;

(B) the name of a leasing company, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the leasing company in which the vehicle is being titled; and

(ii) the leasing company may submit:

(I) a government issued photo identification, required under paragraph (1) of this subsection, of the lessee listed as the registrant; or

(II) a government issued photo identification, required under paragraph (1) of this subsection, of the employee or authorized agent who signed the application for the leasing company, and the employee's or authorized agent's employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(C) the name of a trust, then a government issued photo identification, required under paragraph (1) of this subsection, of a trustee must be presented; or

(D) the name of a business, government entity, or organization, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the business, government entity, or organization in which the vehicle is being titled;

(ii) the employee or authorized agent must present a government issued photo identification, required under paragraph (1) of this subsection; and

(iii) the employee's or authorized agent's employee identification; letter of authorization written on the business', govern-

ment entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of attorney is being used to apply for a title, then the applicant must show:

(A) identification, required under paragraph (1) of this subsection, matching the person named as power of attorney; or

(B) identification, required under paragraph (1) of this subsection, and employee identification or a printed business card or authorization written on the letterhead of the entity named as power of attorney that matches the identification of the employee if the power of attorney names an entity.

(4) Within this subsection, an identification document such as a printed business card, letter of authorization, or power of attorney, may be an original or a photocopy.

(5) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 is exempt from submitting to the county tax assessor-collector, but must retain:

(A) the owner's identification, as required under paragraph (1) of this subsection; and

(B) authorization to sign, as required under paragraph (2) of this subsection.

(6) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 is not required to submit photo identification or authorization for an employee or agent signing a title assignment with a secure power of attorney.

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

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For further information, please call: (512) 465-4160

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43 TAC §217.4, §217.15

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

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

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43 TAC §217.8, §217.16

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the depart-

ment to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

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SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §§217.22, 217.23, 217.25, 217.26, 217.28, 217.29, 217.31, 217.33, 217.36, 217.37, 217.41, 217.43, 217.45, 217.50, 217.51, 217.54 - 217.56

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

§217.22. Definitions.

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

(1) Affidavit for alias exempt registration--A form prescribed by the director that must be executed by an exempt law enforcement agency to request the issuance of exempt registration in the name of an alias.

(2) Agent--A duly authorized representative possessing legal capacity to act for an individual or legal entity.

(3) Alias--The name of a vehicle registrant reflected on the registration, different than the name of the legal owner of the vehicle.

(4) Alias exempt registration--Registration issued under an alias to a specific vehicle to be used in covert criminal investigations by a law enforcement agency.

(5) Axle load--The total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(6) Border commercial zone--A commercial zone established under Title 49, C.F.R., Part 372 that is contiguous to the border with Mexico.

(7) Bus--A motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(8) Carrying capacity--The maximum safe load that a commercial vehicle may carry, as determined by the manufacturer.

(9) Character--A numeric or alpha symbol displayed on a license plate.

(10) County or city civil defense agency--An agency authorized by a commissioner's court order or by a city ordinance to provide protective measures and emergency relief activities in the event of hostile attack, sabotage, or natural disaster.

(11) Current photo identification--a government-issued photo identification that is currently valid or is expired not more than 12 months, or a state-issued personal identification certificate issued to a qualifying person if the identification states that it has no expiration.

(12) Digital license plate--As defined in Transportation Code, §504.151.

(13) Digital license plate owner--A digital license plate owner is a person who purchases or leases a digital license plate from a department-approved digital license plate provider.

(14) Director--The director of the Vehicle Titles and Registration Division, Texas Department of Motor Vehicles.

(15) Division--Vehicle Titles and Registration Division.

(16) Executive administrator--The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city that by law possesses the authority to conduct covert criminal investigations.

(17) Exempt agency--A governmental body exempted by statute from paying registration fees when registering motor vehicles.

(18) Exempt license plates--Specially designated license plates issued to certain vehicles owned or controlled by exempt agencies.

(19) Exhibition vehicle--

(A) An assembled complete passenger car, truck, or motorcycle that:

(i) is a collector's item;

(ii) is used exclusively for exhibitions, club activities, parades, and other functions of public interest;

(iii) does not carry advertising; and

(iv) has a frame, body, and motor that is at least 25-years old; or

(B) A former military vehicle as defined in Transportation Code, §504.502.

(20) Fire-fighting equipment--Equipment mounted on fire-fighting vehicles used in the process of fighting fires, including, but not limited to, ladders and hoses.

(21) Foreign commercial motor vehicle--A commercial motor vehicle, as defined by 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other than the United States.

(22) GPS--A global positioning system tracking device that can be used to determine the location of a digital license plate through data collection by means of a receiver in a digital license plate.

(23) Highway construction project--That section of the highway between the warning signs giving notice of a construction area.

(24) International symbol of access--The symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

(25) Legend--A name, motto, slogan, or registration expiration notification that is centered horizontally at the bottom of the license plate.

(26) Make--The trade name of the vehicle manufacturer.

(27) Metal license plate--A non-digital license plate issued by the department under Transportation Code Chapter 502, 503, or Chapter 504.

(28) Nonprofit organization--An unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Business Organizations Code.

(29) Nominating State Agency--A state agency authorized to accept and distribute funds from the sale of a specialty plate as designated by the nonprofit organization (sponsoring entity).

(30) Optional digital license plate information--Any information authorized to be displayed on a digital license plate in addition to required digital license plate information when the vehicle is in park, including:

(A) an emergency alert or other public safety alert issued by a governmental entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

(B) vehicle manufacturer safety recall notices;

(C) advertising; or

(D) a parking permit.

(31) Park--As defined in Transportation Code, §541.401.

(32) Political subdivision--A county, municipality, local board, or other body of this state having authority to provide a public service.

(33) Primary region of interest--The field on a metal or digital license plate with alphanumeric characters representing the plate number. The primary region of interest encompasses a field of 5.75 inches in width by 1.75 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The primary region of interest encompasses a field of 8.375 inches in width by 2.5625 inches in height on metal license plates manufactured for all other vehicles.

(34) Registration period--A designated period during which registration is valid. A registration period begins on the first day of a calendar month and ends on the last day of a calendar month.

(35) Required digital license plate information--The minimum information required to be displayed on a digital license plate: the registration expiration month and year (unless the vehicle is a token trailer as defined by Transportation Code, §502.001), the alphanu-

meric characters representing the plate number, the word "Texas," the registration expiration notification if the registration for the vehicle has expired; and the legend (if applicable).

(36) Secondary region of interest--The field on a metal or digital license plate with the word "Texas" centered horizontally at the top of the plate. The secondary region of interest encompasses a field of 2.5 inches in width by 0.5625 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The secondary region of interest encompasses a field of 6 inches in width by 1.9375 inches in height on metal license plates manufactured for all other vehicles.

(37) Service agreement--A contractual agreement that allows individuals or businesses to access the department's vehicle registration records.

(38) Specialty license plate--A special design license plate issued by the department.

(39) Specialty license plate fee--Statutorily or department required fee payable on submission of an application for a specialty license plate, symbol, tab, or other device, and collected in addition to statutory motor vehicle registration fees.

(40) Sponsoring entity--An institution, college, university, sports team, or any other non-profit individual or group that desires to support a particular specialty license plate by coordinating the collection and submission of the prescribed applications and associated license plate fees or deposits for that particular license plate.

(41) Street or suburban bus--A vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to a municipality.

(42) Tandem axle group--Two or more axles spaced 40 inches or more apart from center to center having at least one common point of weight suspension.

(43) Unconventional vehicle--A vehicle built entirely as machinery from the ground up, that is permanently designed to perform a specific function, and is not designed to transport property.

(44) Vehicle classification--The grouping of vehicles in categories for the purpose of registration, based on design, carrying capacity, or use.

(45) Vehicle description--Information regarding a specific vehicle, including, but not limited to, the vehicle make, model year, body style, and vehicle identification number.

(46) Vehicle identification number--A number assigned by the manufacturer of a motor vehicle or the department that describes the motor vehicle for purposes of identification.

(47) Vehicle registration insignia--A license plate, symbol, tab, or other device issued by the department evidencing that all applicable fees have been paid for the current registration period and allowing the vehicle to be operated on the public highways.

(48) Vehicle registration record--Information contained in the department's files that reflects, but is not limited to, the make, vehicle identification number, model year, body style, license number, and the name of the registered owner.

(49) Volunteer fire department--An association that is organized for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services.

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

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43 TAC §217.27

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

§217.27. Vehicle Registration Insignia.

(a) On receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue

vehicle registration insignia to be displayed on or kept in the vehicle for which the registration was issued for the current registration period.

(1) If the vehicle has a windshield, the vehicle registration insignia shall be attached to the inside lower left corner of the vehicle's front windshield in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1.

(2) If the vehicle has no windshield, the vehicle registration insignia shall be attached to the rear license plate unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer plates.

(3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be retained with the vehicle and may provide the record of registration for vehicles with a digital license plate. The expiration month and year must appear digitally on the electronic visual display of the rear digital license plate.

(4) If the vehicle is registered as a former military vehicle as prescribed by Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab, or license plate.

(A) Former military vehicle registration numbers shall be displayed on a prominent location on the vehicle in numbers and letters of at least two inches in height.

(B) To the extent possible, the location and design of the former military vehicle registration number must conform to the vehicle's original military registration number.

(b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

(1) must display two license plates that are clearly visible, readable, and legible, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in an upright horizontal position of not less than 12 inches from the ground, measuring from the bottom; or

(2) must display one plate that is securely fastened at or as close as practical to the exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible, readable, and legible.

(c) Each vehicle registered under this subchapter must display license plates:

(1) assigned by the department for the period; or

(2) validated by a registration insignia issued by the department for a registration period consisting of 12 consecutive months at the time of application for registration, except that:

(A) vehicles described by Transportation Code, §502.0024 may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration; and

(B) vehicles may be registered for 24 consecutive months in accordance with Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the number of months remaining on the inspection at the time of registration, provided:

(i) the vehicle receives a two-year inspection under Transportation Code, §548.102; and

(ii) the application for registration is made in the name of the purchaser under Transportation Code, §501.0234.

(d) The department may cancel any license plate issued with a personalized license plate number if the department subsequently determines or discovers that the personalized license plate number did not comply with this section when the license plate was issued, or if due to changing language usage, meaning, or interpretation, the personalized license plate number no longer complies with this section. When reviewing a personalized license plate number, the department need not consider the applicant's subjective intent or declared meaning. The department will not issue any license plate containing a personalized license plate number that meets one or more of the following criteria:

(1) The license plate number conflicts with the department's current or proposed general issue license plate numbering system.

(2) The director or the director's designee finds that the personalized license plate number may be considered objectionable. An objectionable license plate number may include words, phrases, or slang in any language; phonetic, numeric, or reverse spelling; acronyms; patterns viewed in mirror image; or code that only a small segment of the community may be able to readily decipher. An objectionable pattern may be viewed as:

(A) indecent (defined as including a direct reference or connotation to a sexual act, sexual body parts, excreta, or sexual bodily fluids or functions. Additionally, the license plate number "69" is prohibited unless used with the full year (1969) or in combination with a reference to a vehicle;

(B) vulgar, directly or indirectly (defined as profane, swear, or curse words);

(C) derogatory, directly or indirectly (defined as an expression that is demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, or sexual orientation. "Derogatory" may also include a reference to an organization that advocates the expressions described in this subparagraph);

(D) a direct or indirect negative instruction or command directed at another individual related to the operation of a motor vehicle;

(E) a direct or indirect reference to gangs, illegal activities, implied threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime, or unlawful conduct;

(F) a direct or indirect reference to controlled substances or the physiological state produced by such substances, intoxicated states, or a direct or indirect reference that may express, describe, advertise, advocate, promote, encourage, or glorify such substances or states;

(G) a direct representation of law enforcement or other governmental entities, including any reference to a public office or position exclusive to government; or

(H) a pattern that could be misread by law enforcement.

(3) The license plate number is currently on a license plate issued to another owner.

(e) Notwithstanding the provisions of this section, the department may issue license plates with personalized license plate numbers that refer to:

(1) military branches, military rank, military units, military equipment, or status; or

(2) institutions of higher education, including military academies, whether funded privately, by the state, or by the federal government.

(f) A decision to cancel or not to issue a license plate with a personalized license plate number under subsection (d) of this section may be appealed to the executive director of the department or the executive director's designee within 20 days of notification of the cancellation or non-issuance. All appeals must be in writing, and the requesting party may include any written arguments, but shall not be entitled to a contested case hearing. The executive director or the executive director's designee will issue a decision no later than 30 days after the department receives the appeal, unless additional information is sought from the requestor, in which case the time for decision is tolled until the additional information is provided. The decision of the executive director or the executive director's designee is final and may not be appealed to the board. An appeal to the executive director or the executive director's designee is denied by operation of law 31 days from the receipt of the appeal, or if the requestor does not provide additional requested information within ten days of the request.

(g) The provisions of subsection (a) of this section do not apply to vehicles registered with annual license plates issued by the department.

(h) A person whose initial application has been denied will receive a refund if the denial is not appealed in accordance with subsection (f) of this section. If an existing license plate with a personalized license plate number has been canceled, the person may choose a new personalized license plate number that will be valid for the remainder of the term, or the remaining term of the canceled license plate will be forfeited.

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43 TAC §217.34

Statutory Authority. The department adopts a repeal to Chapter 217 under Transportation Code §551.202, which identifies the operation on roadways of electric personal assistive mobility devices.

Cross Reference to Statute. The adopted repeal would implement Transportation Code Chapter 551.

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43 TAC §§217.40. 217.46, 217.52, 217.53

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for an extended period of not more than five years; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which authorizes the department to adopt rules to provide for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law. Transportation Code §504.0011, which gives the department authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code §504.010, which authorizes the department to adopt rules governing the placement of license plates on motor vehicles; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502, 504 and 520.

§217.53. Disposition of License Plates and Registration Insignia upon Sale or Transfer of Motor Vehicle.

(a) Upon the sale or transfer of a motor vehicle to a dealer, the dealer shall remove and retain the assigned general issue license plates for disposition at the time of a subsequent purchase in accordance with §215.151(d) (relating to License Plate General Use Requirements), and the dealer shall remove and dispose of the registration insignia as provided in Transportation Code, §502.491.

(b) Upon the sale or transfer of a motor vehicle in which neither party is a dealer, the general issue license plates remain with the motor vehicle as provided in Transportation Code, §504.901.

(c) A license plate other than a general issue license plate shall be removed by the owner of a motor vehicle that is sold or transferred. Removed license plates may be transferred if eligible; otherwise, must be disposed of in a manner that renders the license plates unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle.

(d) If the purchaser at a retail sale chooses to obtain replacement general issue license plates, the replaced license plates must be disposed of in a manner that renders the license plates unusable or that ensures the license plates will not be available for fraudulent use on a motor vehicle.

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

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Laura Moriaty
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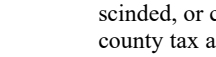

SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

43 TAC §§217.71, 217.74, 217.75

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502 and 520.

§217.74. webDEALER Access, Use, and Training.

(a) Each county tax assessor-collector shall request access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order to accept a title application in the county as provided by subsections (b) and (c) of this section.

(b) Except as provided in subsection (c) of this section, a person who wishes to become a user of webDEALER must contact each entity to whom they submit title applications for authorization to utilize webDEALER. A user must receive authorization from each entity, including each county tax assessor-collector, to whom the user submits title applications. Title applications submitted to the department require the authorization by the department.

(c) A motor vehicle dealer who holds a general distinguishing number (holder) must contact each county tax assessor-collector to whom they submit title applications for webDEALER access. The county must provide the holder access. A holder must obtain access from each county to whom the user submits title applications. All active holders must obtain access to webDEALER in advance of July 1, 2025. If a holder does not have webDEALER access by April 30, 2025, the department may provide the holder access to webDEALER in the county where the holder is located.

(d) A county tax assessor-collector may authorize a deputy appointed by the county tax assessor-collector in accordance with subchapter H of this chapter (relating to Deputies) to utilize webDEALER.

(e) An entity or person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county tax assessor-collector or the department.

(f) When submitting a title application through webDEALER, a user must:

(1) stamp the word "SURRENDERED" across the front face and the next open assignment or reassignment space of any secure title document or other acceptable ownership evidence as determined by the department in:

(A) arial font;

(B) black ink; and

(C) a size of 1/4" height x 2 1/4" length;

(2) retain the physical document described in paragraph (1) of this subsection for a minimum of four calendar years from the date of submitting a scanned copy of the stamped title document using the webDEALER system; and

(3) submit any documents required to be submitted with the title application with a scanned resolution of at least 200 dots per inch (DPI).

(g) Required webDEALER training. Each user accessing webDEALER under the account of a holder that is described under subsection (c) and required to process title and registration transactions through webDEALER in accordance with Transportation Code, Section 520.0055, must complete webDEALER training conducted by the department by April 30, 2025. New users created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permissions.

(1) Required training will include, at a minimum, training regarding transactions performed in webDEALER and proper use of the system.

(2) A user who has had access to webDEALER for more than six months and submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training under this section.

(3) Failure for holders and users accessing webDEALER under the holder's account to complete the required training as outlined in this section shall result in denial of access to webDEALER.

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

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SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §§217.81, 217.82, 217.84 - 217.86, 217.88

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0925, which authorizes the department to adopt rules governing the issuance of titles to insurance companies; Transportation Code, §501.097, which authorizes the department to prescribe the process and procedures for applying for nonrepairable and salvage vehicle titles; Transportation Code, §501.1003, which authorizes the department to require salvage dealers to report nonrepairable and salvage motor vehicles that are dismantled, scrapped or destroyed and to surrender ownership documents for such vehicles; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapter 501; and Occupations Code Chapter 2302.

§217.81. Purpose and Scope.

Transportation Code, Chapter 501, Subchapter E, charges the department with the responsibility of issuing titles for nonrepairable and salvage motor vehicles and titles for rebuilt salvage motor vehicles. For the department to efficiently and effectively issue the vehicle titles, maintain records, collect the applicable fees, and ensure the proper application by motor vehicle owners, this subchapter prescribes the policies and procedures for the application for and issuance of vehicle titles for nonrepairable and salvage motor vehicles, and titles for rebuilt salvage motor vehicles.

§217.82. Definitions.

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

(1) Casual sale--Sale as defined by Transportation Code, §501.091(2).

(2) Certificate of title--Title as defined by Transportation Code, §501.002(1-a).

(3) Application for Title--A form prescribed by the director of the department's Vehicle Titles and Registration Division that reflects the information required by the department to create a motor vehicle title record.

(4) Damage--Damage as defined by Transportation Code, §501.091(3).

(5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) Department--The Texas Department of Motor Vehicles.

(7) Export-only sale--The sale of a nonrepairable or salvage motor vehicle, by a salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or a governmental entity, to a person who resides outside the United States.

(8) Flood damage--A title remark that is initially indicated on a nonrepairable or salvage vehicle title to denote that the damage to the vehicle was caused exclusively by flood and that is carried forward on subsequent title issuance.

(9) Insurance company--As defined by Transportation Code, §501.091(5).

(10) Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner, and when presented with an application for title, showing, on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(11) Metal recycler--A person as defined by Transportation Code §501.091(7).

(12) Motor vehicle--A vehicle described by Transportation Code, §501.002(17).

(13) Nonrepairable motor vehicle--A motor vehicle as defined by Transportation Code, §501.091(9).

(14) Nonrepairable vehicle title--Title as defined by Transportation Code, §501.091(10).

(15) Nonrepairable record of title--Title as defined by Transportation Code, §501.091(10-a).

(16) Out-of-state buyer--Buyer as defined by Transportation Code, §501.091(11).

(17) Out-of-state ownership document--A negotiable document issued by another jurisdiction that the department considers sufficient to prove ownership of a nonrepairable or salvage motor vehicle and to support issuance of a comparable Texas certificate of title for the motor vehicle. The term does not include a title issued by the department, including a:

(A) regular certificate of title;

(B) nonrepairable vehicle title;

(C) salvage vehicle title;

(D) salvage certificate;

(E) Certificate of Authority to Demolish a Motor Vehicle; or

(F) any other ownership document issued by the department.

(18) Person--An individual, partnership, corporation, trust, association, or other private legal entity.

(19) Rebuilt salvage title--A title evidencing ownership of a nonrepairable motor vehicle that was issued a nonrepairable vehicle title prior to September 1, 2003, or salvage motor vehicle that has been rebuilt.

(20) Salvage motor vehicle--A motor vehicle, regardless of the year model:

(A) that:

(i) is damaged or is missing a major component part to the extent that the cost of repairs exceeds the actual cash value of the motor vehicle immediately before the damage; or

(ii) comes into this state under an out-of-state ownership document that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation, and is not an out-of-state ownership document with a "rebuilt," "prior salvage," or similar notation, or a nonrepairable motor vehicle; and

(B) does not include:

(i) a motor vehicle for which an insurance company has paid a claim for repairing hail damage, or theft, unless the motor vehicle was damaged during the theft and before recovery to the extent that the cost of repair exceeds the actual cash value of the motor vehicle immediately before the damage;

(ii) the cost of materials or labor for repainting the motor vehicle; or

(iii) sales tax on the total cost of repairs.

(21) Salvage vehicle dealer--Dealer as defined by Transportation Code, §501.091(17).

(22) Salvage vehicle title--Title as defined by Transportation Code, §501.091(16).

(23) Salvage record of title--Title as defined by Transportation Code, §501.091(16-a).

§217.84. Application for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title.

(a) Place of application. The owner of a nonrepairable or salvage motor vehicle who is required to obtain or voluntarily chooses to obtain a nonrepairable or salvage vehicle title, as provided by §217.83 of this title (relating to Requirement for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title), shall apply for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title by submitting an application, the required accompanying documentation, and the statutory fee to the department.

(b) Information on application. An applicant for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title shall submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must include:

(1) the name and current address of the owner;

(2) a description of the motor vehicle, including the model year, make, body style, and vehicle identification number;

(3) a statement describing whether the motor vehicle is a nonrepairable or salvage motor vehicle;

(4) whether the damage was caused exclusively by flood;

(5) a description of the damage to the motor vehicle;

(6) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements, if the motor vehicle is a salvage motor vehicle;

(7) the name and mailing address of any lienholder and the date of lien, as provided by subsection (e) of this section; and

(8) the signature of the applicant or the applicant's authorized agent and the date the title application was signed.

(c) Accompanying documentation. A nonrepairable or salvage vehicle title or nonrepairable or salvage record of title application must be supported, at a minimum, by:

(1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the applicant is an insurance company that is unable to locate one or more of the owners;

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the motor vehicle is a salvage motor vehicle; and

(3) a release of any liens.

(d) Evidence of nonrepairable or salvage motor vehicle ownership.

(1) Evidence of nonrepairable or salvage motor vehicle ownership properly assigned to the applicant must accompany the application for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, except as provided by paragraph (2) of this subsection. Evidence must include documentation sufficient to show ownership to the nonrepairable or salvage motor vehicle, such as:

(A) a Texas Title;

(B) a certified copy of a Texas Title;

(C) a manufacturer's certificate of origin;

(D) a Texas Salvage Certificate;

(E) a nonrepairable vehicle title or record of title;

(F) a salvage vehicle title or record of title;

(G) a comparable ownership document issued by another jurisdiction, except that if the applicant is an insurance company, evidence must be provided indicating that the insurance company is:

(i) licensed to do business in Texas; or

(ii) not licensed to do business in Texas, but has paid a loss claim for the motor vehicle in this state; or

(H) a photocopy of the inventory receipt or a title and registration verification evidencing surrender to the department of the negotiable evidence of ownership for a motor vehicle as provided by §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles), and if the evidence of ownership surrendered was from another jurisdiction, a photocopy of the front and back of the surrendered evidence of ownership.

(2) An insurance company that acquires ownership or possession of a nonrepairable or salvage motor vehicle through payment of a claim may apply for a nonrepairable or salvage vehicle title to be issued in the insurance company's name without obtaining an ownership document or if it received an ownership document without the proper assignment of the owner if the company is unable to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application is not made earlier than the 30th day after the date of payment of the claim. The application must also include:

(A) a statement that the insurance company has provided at least two written notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for the motor vehicle;

(B) a statement that the insurance company paid a loss claim for the vehicle that was accepted; and

(C) any unassigned or improperly assigned title in the insurance company's possession.

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state ownership document may obtain a salvage or nonrepairable vehicle title or salvage or nonrepairable record of title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title consistent with Transportation Code, §501.0935.

(5) Proof of notice under this subsection consists of:

(A) the validated receipts for registered or certified mail and return receipt or an electronic certified mail receipt, including signature receipt; and

(B) any unopened certified letters returned by the post office as unclaimed, undeliverable, or with no forwarding address.

(e) Recordation of lien on nonrepairable and salvage vehicle titles. If the motor vehicle is a salvage motor vehicle, a new lien or a currently recorded lien may be recorded on the salvage vehicle title. If the motor vehicle is a nonrepairable motor vehicle, only a currently recorded lien may be recorded on the nonrepairable vehicle title.

(f) Issuance. Upon receipt of a completed nonrepairable or salvage vehicle title application, accompanied by the statutory application fee and the required documentation, the department will, before the sixth business day after the date of receipt, issue a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as appropriate.

(1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(2) If a lien is recorded on a nonrepairable or salvage vehicle title, the vehicle title will be mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout of the newly established motor vehicle record, indicating a lien has been recorded.

(3) A nonrepairable vehicle title will state on its face that the motor vehicle may:

(A) not be repaired, rebuilt, or reconstructed;

(B) not be issued a regular title or registered in this state;

(C) not be operated on a public highway; and

(D) may only be used as a source for used parts or scrap metal.

§217.85. Replacement of Nonrepairable or Salvage Motor Vehicle Ownership Documents.

(a) Location. Applications for certified copies of ownership documents for nonrepairable or salvage motor vehicles will only be processed at the department's Austin headquarters office.

(b) Notation. The certified copy will contain the words "Certified Copy" and the date issued, and the motor vehicle record will be noted accordingly until ownership of the nonrepairable or salvage motor vehicle is transferred. Then the notation will be eliminated from the new title and from the motor vehicle record.

(c) Replacement of nonrepairable or salvage vehicle titles. If a nonrepairable or salvage vehicle title is lost or destroyed, the department will issue a certified copy of the ownership document type originally issued, except as provided by subsection (d)(2) of this section, to the motor vehicle owner, lienholder, or verifiable agent on submission of verifiable proof and payment of the appropriate fee as provided in §217.7 of this title (relating to Replacement of Title).

(d) Replacement of nonrepairable or salvage ownership documents issued prior to September 1, 2003.

(1) If a salvage certificate of title issued by this state prior to September 1, 2003, is lost or destroyed, the department will issue a certified copy of a salvage vehicle title, to the motor vehicle owner, lienholder, or verifiable agent on proper application, submission of verifiable proof, and payment of the appropriate fee as provided in §217.7.

(2) If a nonrepairable certificate of title or salvage certificate issued by this state prior to September 1, 2003, is lost or destroyed, the department will issue a salvage vehicle title to the motor vehicle owner, lienholder, or verifiable agent on proper application, submission of verifiable proof, and payment of the appropriate fee as provided in §217.7.

§217.86. Dismantling, Scrapping, or Destruction of Motor Vehicles.

(a) A person who acquires ownership of a nonrepairable or salvage motor vehicle for the purpose of dismantling, scrapping, or destruction shall, not later than the 30th day after the motor vehicle was acquired:

(1) submit to the department a report, on a form prescribed by the department:

(A) stating that the motor vehicle will be dismantled, scrapped, or destroyed; and

(B) certifying that all unexpired license plates and registration validation stickers have been removed from the motor vehicle, in accordance with Occupations Code, §2302.252; and

(2) surrender to the department the properly assigned ownership document.

(b) The person shall:

(1) maintain records of each motor vehicle that will be dismantled, scrapped, or destroyed, as provided by Chapter 221, Subchapter D of this title (relating to Records); and

(2) store all unexpired license plates and registration validation stickers removed from those vehicles in a secure location.

(c) The department will issue the person a receipt with surrender of the report and ownership documents.

(d) For purposes of dismantling, scrapping, or destruction, a nonrepairable or salvage motor vehicle may only be transferred to a metal recycler upon issuance of a receipt as provided in subsection (c) of this section. The transfer shall be documented on a form prescribed by the department and be included with the transfer of the vehicle along with the receipt as provided in subsection (c) of this section.

(e) License plates and registration validation stickers removed from vehicles reported under subsection (a)(1) of this section may be destroyed upon receipt of the acknowledged report from the department.

(f) The department will place an appropriate notation on motor vehicle records for which ownership documents have been surrendered to the department.

(g) Not later than 60 days after the motor vehicle is delivered to the metal recycler for purposes of the vehicle being dismantled, scrapped, or destroyed, the person shall report to the department and provide evidence that the motor vehicle has been dismantled, scrapped, or destroyed.

§217.88. Sale, Transfer, or Release of Ownership of a Nonrepairable or Salvage Motor Vehicle.

(a) Sale, transfer or release with a nonrepairable or salvage motor vehicle title or nonrepairable or salvage record of title. The ownership of a motor vehicle for which a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, salvage record of title, or a comparable out-of-state ownership document has been issued, including a motor vehicle that has a "Flood Damage" notation on the title, may be sold, transferred, or released to anyone.

(b) Sale, transfer or release without a nonrepairable or salvage motor vehicle title or nonrepairable or salvage record of title shall be consistent with Transportation Code, §501.095(a).

(c) Sale of self-insured nonrepairable or salvage motor vehicle. The owner of a self-insured nonrepairable or salvage motor vehicle that has been damaged and removed from normal operation shall obtain a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title before selling or otherwise transferring ownership of the motor vehicle.

(d) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company may sell up to five nonrepairable or salvage motor vehicles, for which nonrepairable or salvage vehicle titles or nonrepairable or salvage record of title have been issued, to a person, not to include those specified in Transportation Code, §501.091(2)(A-C), in a casual sale during a calendar year.

(e) Records of casual sales.

(1) A salvage vehicle dealer, salvage pool operator, or insurance company must maintain records of each casual sale made during the previous 36 months, in accordance with Transportation Code, §501.108, that at a minimum contain:

(A) the date of sale;

(B) the sales price;

(C) the name and address of the purchaser;

(D) a legible photocopy of a form of current photo identification as specified in §217.7(b) of this title (Relating to Replacement of Title);

(E) the form of identification provided, the identification document number, and the name of the jurisdiction that issued the identification document;

(F) the description of the motor vehicle, including the vehicle identification number, model year, make, body style, and model;

(G) a photocopy of the front and back of the properly assigned ownership document provided to the purchaser; and

(H) the purchaser's certification, on a form provided by the department, that the purchase of motor vehicles in a casual sale is not intended to circumvent the provisions of Transportation Code, Chapter 501 (relating to Certificates of Title) and Occupations Code, Chapter 2302 (relating to Salvage Vehicle Dealers).

(2) Records may be maintained on a form provided by the department or in an electronic format.

(3) Records must be maintained on the business premises of the seller, and shall be made available for inspection upon request.

(f) Export-only sales.

(1) In accordance with Transportation Code, §501.099, only a licensed salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or governmental entity may sell a nonrepairable or salvage motor vehicle to a person who resides outside the United States, and only:

(A) when a nonrepairable or salvage vehicle title has been issued for the motor vehicle prior to offering it for export-only sale; and

(B) prior to the sale, the seller obtains a legible photocopy of a government-issued photo identification of the purchaser that can be verified by law enforcement, issued by the jurisdiction in which the purchaser resides that may consist of:

(i) a passport;

(ii) a driver's license;

(iii) consular identity document;

(iv) national identification certificate or identity document; or

(v) other government-issued identification that includes the name of the jurisdiction issuing the document, the purchaser's full name, foreign address, date of birth, photograph, and signature.

(2) The seller must obtain the purchaser's certification, on a form prescribed by the department, that the purchaser will remove the motor vehicle from the United States and will not return the motor

vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

(3) The seller must provide the buyer with a properly assigned nonrepairable or salvage vehicle title.

(4) The seller must stamp FOR EXPORT ONLY and the seller's salvage vehicle dealer license number or the governmental entity's name, whichever applies, on the face of the title and on any unused reassignments on the back of the title.

(g) Records of export-only sales.

(1) A salvage vehicle dealer or governmental entity that sells a nonrepairable or salvage motor vehicle for export-only must maintain records of all export-only sales until the third anniversary of the date of the sale.

(2) Records of each sale must include:

(A) a legible copy of the stamped and properly assigned nonrepairable or salvage vehicle title;

(B) the buyer's certified statement required by subsection (f)(2) of this section;

(C) a legible photocopy of a form of photo identification as specified in subsection (f)(1)(B) of this section;

(D) a legible copy of any other documents related to the sale of the motor vehicle; and

(E) a listing of each motor vehicle sold for export-only that states the:

(i) date of sale;

(ii) name of the purchaser;

(iii) purchaser's identification document number;

(iv) name of the country that issued the identification document;

(v) the form of identification provided by the purchaser; and

(vi) vehicle identification number of the motor vehicle.

(3) The listing required by paragraph (2)(E) of this subsection must be maintained either on a form provided by the department or in an electronic format approved by the department.

(4) The salvage vehicle dealer or governmental entity shall submit the listing prescribed by paragraph (2)(E) of this subsection to the department within 30 days from the date of sale.

(5) Upon receipt of the listing prescribed by paragraph (2)(E) of this subsection, the department will place an appropriate notation on the motor vehicle record to identify it as a motor vehicle sold for export-only that may not be operated, retitled, or registered in this state.

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43 TAC §217.83, §217.89

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0925, which authorizes the department to adopt rules governing the issuance of titles to insurance companies; Transportation Code, §501.097, which authorizes the department to prescribe the process and procedures for applying for nonrepairable and salvage vehicle titles; Transportation Code, §501.1003, which authorizes the department to require salvage dealers to report nonrepairable and salvage motor vehicles that are dismantled, scrapped or destroyed and to surrender ownership documents for such vehicles; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapter 501; and Occupations Code Chapter 2302.

§217.83. Requirement for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title.

(a) Determination of condition of vehicle.

(1) Salvage motor vehicle. When a vehicle is damaged, the actual cash value of the motor vehicle immediately before the damage and the cost of repairs shall be used to determine whether the damage is sufficient to classify the motor vehicle as a salvage motor vehicle.

(2) Nonrepairable motor vehicle. When a vehicle is damaged, the actual cash value of the motor vehicle immediately before the damage and the cost of repairs, or any method commonly used by the insurance industry, shall be used to determine whether the damage is sufficient to classify the motor vehicle as a nonrepairable motor vehicle.

(3) The actual cash value of the motor vehicle is the market value of a motor vehicle as determined:

(A) from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles; or

(B) if the entity determining the value is an insurance company, by any other procedure recognized by the insurance industry, including market surveys, that is applied in a uniform manner.

(4) The cost of repairs, including parts and labor, shall be determined by:

(A) using a manual of repair costs or other instrument that is generally recognized and used in the motor vehicle industry to determine those costs; or

(B) an estimate of the actual cost of the repair parts and the estimated labor costs computed by using hourly rate and time allocations that are reasonable and commonly assessed in the repair industry in the community in which the repairs are performed.

(5) The cost of repairs does not include:

(A) the cost of:

(i) repairs related to gradual damage to a motor vehicle;

(ii) repairs related to hail damage; or

(iii) materials and labor for repainting or when the damage is solely to the exterior paint of the motor vehicle; or

(B) sales tax on the total cost of repairs.

(b) Who must apply.

(1) An insurance company licensed to do business in this state that acquires ownership or possession of a nonrepairable or salvage motor vehicle that is covered by a title issued by this state or a manufacturer's certificate of origin shall obtain a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84 of this title (relating to Application for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title), before selling or otherwise transferring the nonrepairable or salvage motor vehicle, except as provided by subsection (c) of this section.

(2) A salvage vehicle dealer shall obtain a Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of Title, or comparable out-of-state ownership document, before selling or otherwise transferring the motor vehicle, except as provided by §217.88(b) of this title (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable or Salvage Motor Vehicle).

(3) A person, other than an insurance company or salvage vehicle dealer, who acquires ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, a salvage vehicle title, or a comparable out-of-state ownership document, shall obtain a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise transferring the motor vehicle, unless the motor vehicle will be dismantled, scrapped, or destroyed.

(c) Owner-retained vehicles.

(1) When an insurance company pays a claim on a nonrepairable or salvage motor vehicle and does not acquire ownership of the motor vehicle, the company shall submit through webDEALER to the department before the 31st day after the date of the payment of the claim, on a form prescribed by the department, a report stating that:

(A) the insurance company has paid a claim on the nonrepairable or salvage motor vehicle; and

(B) the insurance company has not acquired ownership of the nonrepairable or salvage motor vehicle.

(2) Upon receipt of the report described in paragraph (2) of this subsection, the department will place an appropriate notation on the motor vehicle record to prevent registration and transfer of ownership prior to the issuance of a salvage or nonrepairable vehicle title or salvage or nonrepairable record of title.

(3) The owner who retained the nonrepairable or salvage motor vehicle to which this subsection applies shall obtain a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise transferring the nonrepairable or salvage motor vehicle.

(4) The owner of an owner retained nonrepairable or salvage motor vehicle may not operate or permit operation of the motor vehicle on a public highway, until the motor vehicle is rebuilt, titled as a rebuilt salvage motor vehicle or rebuilt nonrepairable motor vehicle, if applicable, and is registered in accordance with Subchapter B of this chapter.

(d) Self-insured vehicles. The owner of a nonrepairable or salvage motor vehicle that is self-insured and that has been removed from normal operation by the owner shall apply to the department for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, as provided by §217.84, before the 31st day after the damage occurred, and before selling or otherwise transferring ownership of the nonrepairable or salvage motor vehicle.

(e) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company that acquires a nonrepairable or salvage motor vehicle shall apply to the department for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title, in accordance with §217.84, prior to offering the motor vehicle for sale in a casual sale.

(f) Export-only vehicles. A salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or governmental entity that acquires a nonrepairable or salvage motor vehicle and offers it for sale to a non-United States resident shall apply to the department for a nonrepairable or salvage vehicle title, as provided by §217.84, before selling or otherwise transferring the nonrepairable or salvage motor vehicle and before delivery of the nonrepairable or salvage motor vehicle to the buyer. A salvage vehicle dealer or governmental entity shall maintain records of all export-only nonrepairable or salvage motor vehicle sales as provided by §217.88(g).

(g) Voluntary application. A person who owns or acquires a motor vehicle that is not a nonrepairable or salvage motor vehicle may voluntarily, and on proper application, as provided by §217.84, apply for a nonrepairable or salvage vehicle title or nonrepairable or salvage record of title.

§217.89. Rebuilt Salvage Motor Vehicles.

(a) Filing for title. When a salvage motor vehicle or a nonrepairable motor vehicle for which a nonrepairable vehicle title was issued prior to September 1, 2003, has been rebuilt, the owner shall file a title application, as described in §217.4 of this title (relating to Initial Application for Title), for a rebuilt salvage title.

(b) Place of application. An application for a rebuilt salvage title shall be filed with the county tax assessor-collector in the county in which the applicant resides, in the county in which the motor vehicle was purchased or is encumbered, or to any county tax assessor-collector who is willing to accept the application.

(c) Fee for rebuilt salvage title. In addition to the statutory fee for a title application and any other applicable fees, a $65 rebuilt salvage fee must accompany the application.

(d) Accompanying documentation. The application for a title for a rebuilt nonrepairable or salvage motor vehicle must be supported, at a minimum, by the following documents:

(1) evidence of ownership, properly assigned to the applicant, as described in subsection (e) of this section;

(2) a rebuilt statement, on a form prescribed by the department that includes:

(A) a description of the motor vehicle, which includes the motor vehicle's model year, make, model, identification number, and body style;

(B) an explanation of the repairs or alterations made to the motor vehicle;

(C) a description of each major component part used to repair the motor vehicle and showing the identification number required by federal law to be affixed to or inscribed on the part;

(D) the name of the owner and the name and address of the rebuilder;

(E) a statement by the owner that the owner is the legal and rightful owner of the vehicle, the vehicle is rebuilt, repaired, reconstructed, or assembled and that the vehicle identification number disclosed on the rebuilt affidavit is the same as the vehicle identification number affixed to the vehicle;

(F) the signature of the owner, or the owner's authorized agent; and

(G) a statement by the rebuilder that the vehicle has been rebuilt, repaired, or reconstructed by the rebuilder and that all component parts used were obtained in a legal and lawful manner, signed by the rebuilder or the rebuilder's authorized agent or employee;

(3) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(4) proof of financial responsibility in the title applicant's name, as required by Transportation Code §502.046, unless otherwise exempted by law, if the motor vehicle will be registered at the time of application;

(5) unless otherwise exempted by law, a vehicle identification number inspection under Transportation Code, §501.0321 if the motor vehicle was last titled or registered in another country, or a document described under 217.4(d)(4) of this title (relating to Initial Application for Title) if the vehicle was last titled or registered in another state; and

(6) a release of any liens, unless there is no transfer of ownership and the same lienholder is being recorded as is recorded on the surrendered evidence of ownership.

(e) Evidence of ownership of a rebuilt salvage motor vehicle:

(1) may include:

(A) a Texas Salvage Vehicle Title or Record of Title;

(B) a Texas Nonrepairable Certificate of Title issued prior to September 1, 2003;

(C) a Texas Salvage Certificate; or

(D) a comparable salvage certificate or salvage certificate of title issued by another jurisdiction, except that this ownership document will not be accepted if it indicates that the motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document; but

(2) does not include:

(A) a Texas nonrepairable vehicle title issued on or after September 1, 2003;

(B) an out-of-state ownership document that indicates that the motor vehicle is nonrepairable, junked, for parts or dismantling only, or the motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document; or

(C) a certificate of authority to dispose of a motor vehicle issued in accordance with Transportation Code, Chapter 683.

(f) Rebuilt salvage title issuance. Upon receiving a completed title application for a rebuilt salvage motor vehicle, along with the applicable fees and required documentation, the transaction will be processed and a rebuilt salvage title will be issued. The title will include a "Rebuilt Salvage" notation and a description or disclosure of the motor vehicle's former condition on its face.

(g) Issuance of rebuilt salvage title to a motor vehicle from another jurisdiction. On proper application, as prescribed by §217.4, by the owner of a motor vehicle that is brought into this state from another jurisdiction and for which a certificate of title issued by the other jurisdiction contains a "Rebuilt," "Salvage," or analogous title remark, the department will issue the applicant a title or other appropriate document for the motor vehicle. A title or other appropriate document issued under this subsection will show:

(1) the date of issuance;

(2) the name and address of the owner;

(3) any registration number assigned to the motor vehicle;

(4) a description of the motor vehicle as determined by the department; and

(5) any title remark the department considers necessary or appropriate.

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 October 25, 2024.

TRD-202405074
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: January 1, 2025
Proposal publication date: July 12, 2024
For further information, please call: (512) 465-4160

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43 TAC §217.87

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 217 under Transportation Code, §501.09111, which identifies the rights and limitations of rights to owners of nonrepairable and salvage motor vehicles.

CROSS REFERENCE TO STATUTE. The adopted repeal implements Transportation Code, Chapter 501.

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

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For further information, please call: (512) 465-4160

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SUBCHAPTER E. TITLE LIENS AND CLAIMS

43 TAC §217.106

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code §501.115, which provides the department authority to govern the discharge of a lien on a title, and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapter 501.

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

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SUBCHAPTER F. MOTOR VEHICLE RECORDS

43 TAC §§217.122 - 217.125, 217.129, 217.131

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code §730.014, which give the department authority to adopt rules to administer Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code, Chapter 730.

§217.123. Access to Motor Vehicle Records.

(a) Except as required under subsection (f) of this section, a requestor seeking personal information from department motor vehicle records shall submit a written request in a form required by the department. A completed and properly executed form must include:

(1) the name and address of the requestor;

(2) a description of the requested motor vehicle records, including the Texas license plate number, title or document number, or vehicle identification number of the motor vehicle about which information is requested;

(3) proof of the requestor's identity, in accordance with subsections (b) or (c) of this section;

(4) a statement that the requestor:

(A) is the subject of the record;

(B) has the written consent of the person who is the subject of the record; or

(C) will strictly limit the use of the personal information in department motor vehicle records to a permitted use under Transportation Code Chapter 730, as indicated on the form;

(5) a certification that the statements made on the form are true and correct; and

(6) the signature of the requestor.

(b) Except as required by subsection (c) of this section, a requestor must provide the requestor's current photo identification containing a unique identification number. The identification must be a:

(1) driver's license, Texas Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;

(2) United States or foreign passport;

(3) United States military identification card;

(4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document;

(5) license to carry a handgun issued by the Texas Department of Public Safety under Government Code Chapter 411, Subchapter H; or

(6) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.

(c) A requestor seeking personal information from department motor vehicle records for use by a law enforcement agency must:

(1) present the requestor's current law enforcement credentials;

(2) electronically submit the request in a manner that the department can verify that the requestor is acting on behalf of a law enforcement agency; or

(3) provide a written statement from a higher level in the chain of command on the law enforcement agency's letterhead stating that the requestor is not authorized to provide current law enforcement credentials and identifying the intended use or the agency's incident or case number for which the personal information is needed.

(d) A requestor seeking personal information from department motor vehicle records for use by a law enforcement agency may submit a verbal request to the department if the law enforcement agency has provided reasonable assurances that were accepted by the department as to the identity of the requestor within the last 12 months on a form required by the department. If a request is submitted verbally, the department may require the requestor to confirm the request in writing.

(e) A requestor may receive electronic access to department motor vehicle records under the terms and conditions of a service agreement.

(1) Before a requestor can enter into a service agreement, the requestor must file a completed application on a form required by the department, for review and approval by the department. An application for a service agreement must include:

(A) a statement that the requestor will strictly limit the use of the personal information from department motor vehicle records to a permitted use under Transportation Code Chapter 730, as indicated on the application;

(B) the name and address of the requestor;

(C) proof of the requestor's identity, in accordance with subsections (b) or (c) of this section;

(D) blank copies of agreements used by the requestor to release motor vehicle record information to third parties;

(E) any additional material provided to third-party requestors detailing the process through which they obtain motor vehicle record information and describing their limitations as to how this information may be used;

(F) the signature of the requestor or, if the requestor is an organization or entity, the signature of an officer or director of the requestor; and

(G) a certification that the statements made in the application are true and correct.

(2) If the department determines any of the information provided in the application is incomplete, inaccurate, or does not meet statutory requirements the department will not enter into a service agreement to release motor vehicle record information.

(3) Unless the requestor is exempt from the payment of fees, a service agreement must contain an adjustable account, in which an initial deposit and minimum balance is maintained in accordance with §217.124 of this title (relating to Cost of Motor Vehicle Records). Notwithstanding §217.124 of this title, the department may modify initial deposit and minimum balance requirements depending on usage.

(f) Access to bulk motor vehicle records. A requestor seeking access to department motor vehicle records in bulk must enter into a bulk contract with the department.

(1) Before a requestor can enter into a bulk contract, the requestor must file a completed application on a form required by the department, for review and approval by the department. An application for a bulk contract must include:

(A) a statement that the requestor will strictly limit the use of the personal information to a permitted use under Transportation Code Chapter 730, as indicated on the application;

(B) the name and address of the requestor;

(C) proof of the requestor's identity, in accordance with §217.123(b) or (c) of this title (relating to Access to Motor Vehicle Records);

(D) blank copies of agreements used by the requestor to release motor vehicle record information to third parties;

(E) any additional material provided to third party requestors detailing the process in which they obtain motor vehicle record information and describing their limitations as to how this information may be used;

(F) a certification that the statements made on the form are true and correct; and

(G) the signature of the requestor or, if the requestor is an organization or entity, the signature of an officer or director of the requestor.

(2) If the department determines any of the information provided is incomplete, inaccurate, or does not meet statutory requirements the department will not enter into a bulk contract to release motor vehicle record information.

(3) Prior to the execution of a bulk contract, a requestor must provide proof the requestor has:

(A) posted a $1 million performance bond, payable to this state, conditioned upon the performance of all the requirements of Transportation Code Chapter 730 and this subchapter; and

(B) insurance coverage in the amount of at least $3 million and that meets the requirements of Transportation Code §730.014(c)(3).

(g) If a person is convicted of an offense under Transportation Code Chapter 730 or is found by a court to have violated a rule under this subchapter, then any contract with that person to access department motor vehicle records is terminated as of the date of the court's final determination.

(h) The requirements of this section do not apply to discovery, subpoena, or other means of legal compulsion for the disclosure of personal information.

(i) An authorized recipient will receive requested motor vehicle records in accordance with Title 18 U.S.C. §2721 et seq.; Transportation Code Chapter 730; Government Code §552.130; and this subchapter.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER G. INSPECTIONS

43 TAC §217.143, §217.144

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0321, which authorizes the department to adopt rules establishing the training requirements for personnel conducting identification number inspections; Transportation Code, §501.0322, which provides the department with authority to adopt rules to establish an alternative identification number inspection; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code, Chapters 501 and 731.

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

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Laura Moriaty
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SUBCHAPTER H. DEPUTIES

43 TAC §217.161

STATUTORY AUTHORITY: The department adopts amendments to Chapter 217 under Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the department to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502 and 520.

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

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43 TAC §217.168

STATUTORY AUTHORITY: The department adopts amendments to Chapter 217 under Transportation Code §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which authorizes the department to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; and Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502 and 520.

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

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Laura Moriaty
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SUBCHAPTER I. PROCESS AND HANDLING FEES

43 TAC §§217.181, 217.183, 217.184

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.1911 which authorizes the board to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code Chapter 520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to the county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers of the department, as well as the statutes throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502 and 520; and Government Code Chapter 2054.

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

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43 TAC §217.182, §217.185

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the department authority to adopt rules to administer Transportation Code Chapter 502, Registration of Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle registration; Transportation Code §502.059, which authorizes the department to adopt rules providing for an automated registration process; Transportation Code §502.1911 which authorizes the board to adopt rules to set registration processing and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to administer Transportation Code Chapter 520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate motor vehicle dealers use a department designated electronic system to submit title and registration applications to the county tax assessor-collectors for motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers of the department, as well as the statutes throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapters 502 and 520; and Government Code Chapter 2054.

§217.185. Allocation of Processing and Handling Fees.

(a) For registration transactions, except as provided in subsection (b) of this section, the fee amounts established in §217.183 of this title (relating to Fee Amount) shall be allocated as follows:

(1) If the registration transaction was processed in person at the office of the county tax assessor-collector or mailed to an office of the county tax assessor-collector:

(A) the county tax assessor-collector may retain $2.30; and

(B) the remaining amount shall be remitted to the department.

(2) If the registration transaction was processed through the department or the TxFLEET system or is a registration processed under Transportation Code, §§502.0023, 502.091, or 502.255; or §217.46(b)(5) of this title (relating to Commercial Vehicle Registration):

(A) $2.30 will be remitted to the county tax assessor-collector; and

(B) the remaining amount shall be retained by the department.

(3) If the registration transaction was processed through Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS), the fee established in §217.183 of this title is discounted by $1:

(A) Texas Online receives the amount set pursuant to Government Code, §2054.2591, Fees;

(B) the county tax assessor-collector may retain $.25; and

(C) the remaining amount shall be remitted to the department.

(4) If the registration transaction was processed by a limited service deputy or full service deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy may retain:

(i) the amount specified in §217.168(c) of this title (relating to Deputy Fee Amounts). The deputy must remit the remainder of the processing and handling fee to the county tax assessor-collector; and

(ii) the convenience fee established in §217.168, if the registration transaction is processed by a full service deputy;

(B) the county tax assessor-collector may retain $1.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(5) If the registration transaction was processed by a dealer deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy must remit the processing and handling fee to the county tax assessor-collector;

(B) the county tax assessor-collector may retain $2.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(b) For transactions under Transportation Code, §§502.093 - 502.095, the entity receiving the application and processing the transaction collects the $4.75 processing and handling fee established in §217.183:

(1) the entity may retain $4.25;

(2) the entity must remit the remaining amount to the department; and

(3) a full service deputy processing a special registration permit or special registration license plate transaction may not charge a convenience fee for that transaction.

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

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SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM

43 TAC §217.205

STATUTORY AUTHORITY. The department adopts amendments to Chapter 217 under Transportation Code, §520.003, which authorizes the department to adopt rules to administer Transportation Code,

Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department

to adopt rules to establish standards for uniformity and service quality for counties conducting registration and titling services; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code Chapter 520.

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

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SUBCHAPTER L. ASSEMBLED VEHICLES

43 TAC §217.404

STATUTORY AUTHORITY: The department adopts amendments to Chapter 217 under Transportation Code §731.002 which authorizes the department to adopt rules as necessary to implement Chapter 731, governing assembled vehicles; and §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE: The adopted amendments would implement Transportation Code Chapters 501 and 731.

§217.404. Initial Application for Title.

(a) An applicant must submit to the department a complete application for title. The application may be submitted in person, by mail, or electronically, to the department. The application must include:

(1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a photograph of what the vehicle is a replica of;

(2) evidence of ownership of the basic component parts of the assembled vehicle as described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of assembled vehicle;

(3) if applicable, proof, on a form prescribed by the department, of a safety inspection required under §217.143 of this chapter (relating to Assembled Vehicle Inspection Requirements), and Transportation Code §731.101;

(4) if applicable, a copy of the Automobile and Light Truck certification, or a successor certification, for the master technician who completed the inspection described in paragraph (3) of this subsection;

(5) a copy of the inspection that may be required under Transportation Code Chapter 548 if the assembled vehicle is to be registered for operation on the roadway;

(6) a Rebuilt Vehicle Statement;

(7) a weight certificate;

(8) identification as required in §217.5(d) of this chapter (relating to Evidence of Motor Vehicle Ownership); and

(9) any of the following means to establish the vehicle identification number:

(A) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the department;

(B) an Application for Assigned or Reassigned Number, establishing the vehicle identification number assigned by the manufacturer of the component part by which the assembled vehicle will be identified;

(C) acceptable proof, as established by the department, of a vehicle identification number assigned by the maker of the kit used to construct the assembled vehicle; or

(D) acceptable proof, as established by the department, of a vehicle identification number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

(b) Following receipt of all information required under subsection (a) of this section, the department will review the application for completeness and to determine if the vehicle meets assembled vehicle qualifications under Transportation Code, Chapter 731.

(c) If the department determines that the application is complete and the vehicle meets assembled vehicle qualifications, the department will issue a letter to the applicant on department letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle. The letter shall include a list of the supporting documents and information identified in subsection (d)(2) of this section.

(d) Following receipt of the department's letter described in subsection (c) of this section, the applicant may then submit the letter and the completed application to the county tax assessor-collector for processing. The application must include:

(1) the department-issued letter described in subsection (c) of this section;

(2) copies of all items required to be submitted to the department in subsection (a)(1) - (9) of this section; and

(3) the requirements as identified in §217.23 of this chapter (relating to Initial Application for Vehicle Registration) if obtaining registration.

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

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CHAPTER 221. SALVAGE VEHICLE DEALERS

SUBCHAPTER C. LICENSED OPERATIONS

43 TAC §221.54

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter C, Licensed Operations, §221.54, concerning criteria for site visits, effective July 1, 2025. These amendments are necessary to implement House Bill (HB) 718, enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and to set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Beginning July 1, 2025, when a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to a buyer, including a salvage dealer. These adopted amendments add new criteria to the site visit criteria currently used by the Enforcement Division to include the failure of a salvage dealer to remove, report, or destroy void license plates. These adopted amendments will allow the department to prioritize potential license plate-related misuse or fraud consistent with the department's enforcement obligations under HB 718. Amended §221.54 is being adopted without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5137) and is not being republished.

REASONED JUSTIFICATION.

Adopted amendments to §221.54 add new paragraphs (6) - (8). These adopted amendments expand the list of criteria that the department will consider in determining whether to conduct a site visit to include whether a licensed salvage vehicle dealer has: 1) failed to remove a license plate or registration insignia from a scrapped or destroyed vehicle; 2) failed to timely or accurately report to the department or enter information about a license plate from a scrapped or destroyed vehicle into the system designated by the department; or 3) failed to scrap or destroy void license plates and registration insignias from a scrapped or destroyed vehicle. These adopted amendments will ensure that violations of the statutes and rules relating to license plates are factors that the department considers when deciding the priority of conducting a site visit to a salvage vehicle dealer. An adopted amendment also changed the punctuation from a period to a semicolon in §221.54(5) to accommodate the addition of the new paragraphs.

SUMMARY OF COMMENTS.

The department did not receive any written public comments.

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 221 under Occupations Code, Chapter 2302, and Occupations Code, §2302.051, which authorize the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which authorizes the department to adopt rules to administer Transportation Code, Chapter 503; Transportation Code, §503.063(d), as amended by HB 718, which gives the department authority to conduct a review of the dealer's compliance with statutory obligation to ensure safekeeping of license plates; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and Government Code, §2001.004, 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. These adopted rule amendments implement Occupations Code, Chapter 2302; and Transportation Code, Chapters 501-504, and 1001-1003.

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

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CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §224.27, concerning final orders and motions for rehearing, and to Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement, §224.54, concerning the assessment of civil penalties

and license revocation, and §224.58, concerning denial of access to the license plate system effective July 1, 2025. These amendments are necessary to implement and conform these rules with House Bill (HB) 718 enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates effective July 1, 2025. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Effective July 1, 2025, Transportation Code, §503.0633 requires the department to monitor the number of license plates or sets of license plates obtained by a dealer and to deny access to the license plate database if the department determines that a dealer is acting fraudulently. The adopted amendments in §224.58 implement Transportation Code, §503.0633(f). The department also adopts nonsubstantive changes to delete a duplicative word in §215.58(a)(5) and clarify language in §224.58(a)(5) and §224.58(c).

Amendments to §224.58 are being adopted without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5138) and are not being republished. Amendments to §224.27 are being adopted with a change to the proposed text as published in the August 23, 2024, issue of the *Texas Register* (49 TexReg 6439) and are being republished. Amendments to §224.54 are being adopted without changes to the proposed text as published in the August 23, 2024, issue of the *Texas Register* (49 TexReg 6439) and are not being republished.

REASONED JUSTIFICATION.

Subchapter A. General Provisions.

Adopted amendments to §224.27(d) delete the phrase "temporary tag database" and substitute the phrase "license plate system." This adopted amendment recognizes that under HB 718, the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025. At adoption the phrase "or converter" is being deleted in §224.27(d) because converters will not have access to the license plate system because they are not authorized to issue license plates under HB 718.

Subchapter B. Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement.

An adopted amendment to §224.54(b)(5)(C) deletes the phrase "or temporary tags" because effective July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary tag, under Transportation Code, Chapter 503, as amended by HB 718. Adopted amendments to §224.54(c)(4) delete the phrases "or temporary tags" and "use an internet down tag to" because effective July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary tag or internet down tag, under Transportation Code, Chapter 503, as amended by HB 718. An adopted nonsubstantive amendment to §224.54(c)(6) adds a period to the end of the sentence to correct missing punctuation.

Adopted amendments to the title of §224.58 delete the phrase "or Converter" and substitute the phrase "License Plate System" for "Temporary Tag System". These adopted amendments recognize that under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025. Adopted amendments throughout §§224.58(a)-(f) substitute the phrase "license plates" for "temporary tags" because effective July 1, 2025, a dealer may only issue a license plate or set of license plates, and not a temporary tag under Transportation Code, Chapter 503, as amended by HB 718. Adopted amendments throughout §§224.58(a) - (f) substitute the phrase "license plate system" for the terms "temporary tag database", "a database", and "database" because the purpose of the system will be to issue and track license plates effective July 1, 2025. Adopted amendments throughout §224.58(a) - (f) delete the phrases "or converter" and "or converter's" because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718.

Adopted amendments to §224.58(a) delete a statutory reference to Transportation Code, §503.0626 which was repealed by HB 718 and will no longer exist on July 1, 2025, and add references to §503.063 and §503.065. These two Transportation Code provisions authorize a dealer to issue a buyer's license plate or set of license plates to the purchaser of a motor vehicle in Texas under certain circumstances and to issue a buyer's temporary license plate to an out-of-state buyer. An adopted amendment to §224.58(a) adds "or issue" to clarify that a dealer misuses the license plate system by fraudulently obtaining or issuing a license plate. An adopted amendment to §224.58(a)(4) deletes "or" and adopted amendments to §215.58(a)(5) delete a period and add a semicolon and "or" because a new paragraph is adopted to be added as §215.58(a)(6). Adopted nonsubstantive changes to §224.58(a)(5) delete a redundant "issued," add "the dealer's" before "licensed location," and delete an unnecessary "a" before "storage lot" to clarify that license plate misuse includes a dealer obtaining or issuing a license plate for a vehicle or motor vehicle not located at the dealer's licensed location or storage lot. An adopted amendment adds new §215.58(a)(6), which defines license plate system misuse to include obtaining or issuing a license plate for a vehicle that is not titled or permitted by law to be operated on a public highway. This adopted new language addresses situations such as a dealer obtaining or issuing a license plate for a rebuilt vehicle that is not titled, or obtaining or issuing a license plate for a vehicle that has not passed a required emissions inspection in a nonattainment county and prevents the associated public harm.

An adopted amendment to §224.58(b) substitutes the phrase "or issued a license plate in the license plate system" for "temporary tags from the temporary tag database" to implement the change from temporary tags to license plates mandated by HB 718.

An adopted nonsubstantive change to §224.58(c) adds "address" after "email" to clarify that a notice under this section will be sent to the license holder's last known email address in the department-designated licensing system.

SUMMARY OF COMMENTS.

The department received two written comments from the Texas Automobile Dealers Association (TADA) and an individual.

Comment: TADA requests that a dealer not be denied access to the license plate system when a buyer returns a vehicle with an assigned license plate and the dealer later sells the same vehicle to another customer. TADA further requests the department adopt a rule to address what the dealer should do with a license plate that was assigned to a vehicle if a customer decides to return the vehicle to the dealer.

Response: The department disagrees with this comment. A dealer will not be denied access to the license plate system if the dealer documents the return of the vehicle and the assigned license plate in the department's designated system. The department denies access to the license plate system only when data suggests a dealer is committing fraud and a dealer may request a hearing prior to the decision becoming final.

The department will be providing system training to dealers which will include examples of how to properly void license plate assignments.

Comment: An individual comments that our temporary tag and license plate systems have become increasingly cumbersome and complex and reliant on the internet which can have outages, and that the department should improve related technology management or simplify the process.

Response: The department disagrees with this comment as the comment is not within the scope of this rule proposal. The department agrees that the new license plate management system must be built on a reliable technology platform and designed to be easy to use and is working with vendors to find and implement such a solution.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §224.27

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 224 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501; Transportation Code, §502.0021 which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, as amended by HB 718, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.003, which authorizes the department to adopt rules to administer Chapter 520; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 501-504, 520, 1001, and 1002.

§224.27. Final Order; Motion for Rehearing.

(a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a final order issued under this subchapter and a motion for rehearing filed in response to a final order.

(b) Except as provided by subsection (c) of this section and §224.29 of this title (relating to Delegation of Final Order Authority), the board has final order authority in a contested case filed under Occupations Code, Chapters 2301 or 2302, or under Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1001-1005.

(c) The hearings examiner has final order authority in a contested case filed under Occupations Code, §2301.204 or Occupations Code Chapter 2301, Subchapter M.

(d) A department determination and action denying access to the license plate system becomes final within 26 days of the date of the notice denying access to a database, unless the dealer:

(1) requests a hearing regarding the denial of access, or

(2) enters into a settlement agreement with the department.

(e) Unless a timely motion for rehearing is filed with the appropriate final order authority as provided by law, an order shall be deemed final and binding on all parties. All administrative remedies are deemed to be exhausted as of the effective date of the final order.

(f) If a timely motion for rehearing is not filed, the final order shall be deemed final and binding in accordance with the provisions of Government Code, §2001.144.

(g) If a final and binding order includes an action on a license, the department may act on the license on the date the final order is deemed final and binding, unless the action is stayed by a court order.

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

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SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT

43 TAC §224.54, §224.58

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 224 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, as amended by HB 718, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.003 which authorizes the department to adopt rules to administer Chapter 520; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 501 - 504, 520, 1001, and 1002.

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