

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 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS

19 TAC §67.1315

The Texas Education Agency (TEA) adopts new §67.1315, concerning open education resource (OER) instructional materials. The new section is adopted with changes to the proposed text as published in the September 6, 2024 issue of the *Texas Register* (49 TexReg 6950) and will be republished. The adopted new rule implements House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by providing clarification on the requirements for a school district's OER transition plan.

REASONED JUSTIFICATION: HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised Texas Education Code (TEC), Chapter 31, which addresses instructional materials in public education. Specifically, the bill added TEC, §31.0751, to require school districts to adopt an OER instructional materials transition plan to qualify for additional state aid under TEC, §48.308. School districts participating in an OER instructional material support program are not required to adopt a transition plan.

New §67.1315 provides clarification on the requirements for a school district's OER transition plan, including when a plan must be submitted and what it must contain. The new rule also specifies that the commissioner may request and review OER instructional material transition plans and reject a plan subsequent to review.

At adoption, a change was made to subsection (e) to limit the timeframe for rejection of a transition plan by the commissioner from "at any time" to "before funding is released."

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began September 6, 2024, and ended October 7, 2024. Following is a summary of public comments received and agency responses.

Comment: A publisher commented that the proposed rule could create a barrier to OER implementation as only districts implementing OER materials would have to create a transition plan and those implementing non-OER instructional materials would not.

Response: The agency disagrees that the rule will create a barrier to OER implementation as the requirements of the transition plan are enabling systems necessary to successful instructional materials implementation. Additionally, the OER transition plan is statutorily required in TEC, §31.0751.

Comment: A publisher commented that it is unclear which districts would need to create an OER transition plan as a definition is not provided for "an OER instructional material support program."

Response: The agency provides the following clarification. TEC, §31.0752, defines "Open Education Resource Instructional Material Support Program" as a program developed and maintained by the agency "to assist school districts and open-enrollment charter schools in adopting and using open education resource instructional material." Since the definition is provided in statute, it is not replicated in the rule.

Comment: A publisher commented that the rule does not specify when it would be in effect.

Response: The agency provides the following clarification. According to TEC, §31.0751(a), the OER instructional material transition plan is required to qualify for additional state aid under TEC, §48.308. TEC, §48.308(a), states that "a school district is entitled to additional state aid for each school year...for the costs incurred or for which the district is obligated to pay during the school year in which the aid is provided for the printing and shipping of open education resource instructional materials...." Since an OER instructional material transition plan is required to qualify for this additional state aid, this rule would take effect in the first year this aid is available.

Comment: Texas Classroom Teachers Association (TCTA) opposed the use of the term "internalization" in proposed §67.1315(d)(4), stating it is undefined and not found in HB 1605. TCTA believes this term shifts teacher responsibilities away from lesson design and is premature given the current lack of high-quality instructional materials and OER materials. TCTA recommended removing "internalization" from subsection (d)(4) or revising subsection (d)(4)(B) to read, "lesson design, internalization, when appropriate, and student work analysis protocols."

Response: The agency disagrees. Subsection (d)(4)(B) indicates that the plan should ensure clear expectations for the implementation of internalization protocols. The commenter's recommended revision would require that the plan also ensure clear expectations for the implementation of lesson design protocols. A lesson design protocol is not included in OER materials, so this requirement is not necessary.

Comment: TCTA opposed the inclusion of the term "acceptable" in proposed §67.1315(d)(6), stating it implies district control over teacher flexibility, which, in TCTA's view, contradicts

TEC, §31.0751(b). TCTA further commented that the statute mandates that OER transition plans preserve teachers' ability to address their students' needs.

Response: The agency disagrees. The use of the term "acceptable" in subsection (d)(6) does not imply that the district has control over the instructional flexibility provided by TEC, §31.0751(b), as the term is used in conjunction with the term "guidance."

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which authorizes the commissioner of education to adopt rules consistent with TEC, Chapter 31, as necessary to implement a provision of the chapter that the commissioner or the agency is responsible for implementing; and TEC, §31.0751, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires school districts to adopt an open education resource instructional material transition plan, unless otherwise exempt.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §31.003(b) and §31.0751, as added by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

§67.1315. *Open Education Resource Instructional Material Transition Plan.*

(a) The open education resource (OER) instructional material transition plan shall be submitted, when required by this section, in a format determined by the commissioner of education.

(b) A school district or an open-enrollment charter school is required to have a locally maintained OER transition plan that complies with this section to access funding allotted under Texas Education Code (TEC), §48.308.

(c) A school district or an open-enrollment charter school is required to submit an OER instructional material transition plan only when:

(1) first adopting a State Board of Education (SBOE)-approved OER product for a grade level or subject/course; or

(2) expanding implementation of an SBOE-approved OER product to additional campuses and/or grade levels.

(d) The OER instructional material transition plan adopted by the local board of trustees or the governing body of an open-enrollment charter school shall include the plan of the district or charter school to ensure the following:

(1) clear communication and stakeholder change management plans and timelines;

(2) timely access to print materials and related manipulatives through OER procurement and distribution;

(3) sufficient planning and instructional time evidenced by instructional calendars and master schedules aligned to the requirements of the materials;

(4) clear expectations for the implementation of:

(A) instructional materials;

(B) internalization and student work analysis protocols;

and

(C) curriculum-embedded assessments;

(5) processes for stakeholder communication and public posting, as outlined in TEC, §26.006, if materials have been modified by the school district or open-enrollment charter school;

(6) the maintenance of instructional flexibility through clear guidance for acceptable teacher modifications to instructional pacing, sequencing, and lesson content to address the needs of each student; and

(7) sufficient professional learning and development for school leaders, instructional coaches, and teachers, including:

(A) pre-service product onboarding and orientation; and

(B) ongoing, job-embedded, curriculum-based professional learning, including cycles of observation and feedback.

(e) The commissioner may request and review OER instructional material transition plans before funding is released and reject a plan subsequent to review.

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 103. HEALTH AND SAFETY SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1213

The Texas Education Agency (TEA) adopts new §103.1213, concerning safe schools. The new section is adopted with changes to the proposed text as published in the September 6, 2024 issue of the *Texas Register* (49 TexReg 6951) and will be republished. The new rule requires school safety and security-related reporting through Sentinel in accordance with Texas Education Code (TEC), §37.1083 and §37.115. Sentinel is a comprehensive system designed to enhance the safety and security of students, faculty, and staff in school buildings across Texas.

REASONED JUSTIFICATION: In accordance with TEC, §37.1083, each school district and open-enrollment charter school must submit information requested by TEA in their efforts to monitor the implementation and operation of school district safety and security requirements. The statute allows TEA to review school district records as necessary to ensure compliance.

In addition, TEC, §37.115, requires the establishment of local teams to conduct threat assessments in accordance with rules promulgated by TEA.

New §103.1213(a) outlines school safety reporting requirements for school districts and open-enrollment charter schools under TEC, §37.1083 and §37.115. In response to public comment,

subsection (a) was modified at adoption to reference TEC, §37.115, and TEC, Chapter 37, Subchapters D and G.

New subsection (b) provides the terms and definitions applicable to the new section.

New subsection (c) delineates Sentinel as a repository for all safety and security-related data submitted to TEA by school districts, open-enrollment charter schools, campuses, and other entities.

New subsection (d) affirms the confidentiality of documents or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements.

New subsection (e) requires school systems to report through Sentinel information related to Behavioral Threat Assessments (BTAs), District Vulnerability Assessments (DVAs), emergency management, and Intruder Detection Audits (IDAs). In response to public comment, subsection (e)(1)(A) and (B) were modified at adoption to specify an August 1, 2025 begin date for requirements related to BTAs, and the requirement to use Sentinel to transfer disciplinary records was removed. A reference to TEC, §37.1083(h)(1), was added in subsection (e)(3)(D), and a statutory reference was corrected in subsection (e)(1)(B).

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began September 6, 2024, and ended October 7, 2024. Following is a summary of public comments received and agency responses.

Comment: One Texas administrator had a concern that Sentinel only allowed only three members from each district to access the system.

Response: The agency provides the following clarification. The Intruder Detection Audit (IDA) Dashboard restricted the number of authorized users; however, Sentinel does not. The number of authorized users is unlimited, but consideration should be given to operational necessity.

Comment: One Texas administrator noted concerns discovered during brief interactions with the Sentinel platform, specifically that the platform does not provide an opportunity to include teacher input in threat assessments, which is viewed as an extremely important component, and that the parental consent mechanism in Sentinel is structured in a way that may actually hinder the ability to conduct a threat assessment.

Response: The agency disagrees as the Behavioral Threat Assessment (BTA) team would be able to incorporate teacher-provided information by way of teacher inquiry and interview sessions. Additionally, the parent notification component is included as part of the statutory requirement of parent notification in TEC, §37.115, and is provided for proper documentation of those attempts.

Comment: One Texas administrator raised concerns about the requirement for districts to "submit information related to events requiring an emergency response, including the discovery of a firearm on campus, in the Sentinel portal." The administrator pointed out that there is no proposed definition to clarify what qualifies as an "emergency response," leaving room for significant interpretation. The commenter stated that this could raise questions, such as whether the term applies to responses to events like fire alarms, vehicle accidents, or medical emergencies.

Response: The agency provides the following clarification. Certain notifications are statutorily required, including events such as bomb threats or terroristic threats, as outlined in TEC, §37.113. In addition, "notice of an event requiring a district's emergency response including the discovery of a firearm on a campus" is taken directly from TEC, §37.1083(h). Submission of information in the Sentinel portal does not relieve a district of the requirement to notify local law enforcement of certain activities listed in TEC, §37.015.

Comment: One Texas administrator suggested finding ways to connect Sentinel with frequently used school-based tools like Raptor, allowing schools to update information automatically. The administrator commented that in many cases, the information required in Sentinel already exists in another safety system that the school is using, and an import feature would save countless staff hours.

Response: The agency disagrees, as most of the information captured within Sentinel is unique to the state programs for which the agency is responsible.

Comment: The Texas Association of School Boards (TASB) and one parent raised concerns about the cybersecurity measures in place to ensure that data within the Sentinel system cannot be hacked or breached. They emphasized that the information involved is highly sensitive and could compromise the safety of many if accessed by unauthorized individuals, referencing the compromise of the Raptor system last year despite its supposed security. Additionally, they stressed the importance of student data confidentiality, seeking reassurance that security protocols for sensitive data collected through Sentinel align with best practices, comply with state and federal privacy laws, and adequately safeguard student information.

Response: The agency provides the following clarification. This application is subject to standard agency security and privacy requirements and is designed to protect all confidential data in compliance with both state and federal laws, including the Family Educational Rights and Privacy Act (FERPA).

Comment: TASB and one Texas administrator emphasized that any electronic exchange of personally identifiable student record information should be narrowly tailored to serve essential safety purposes. They also recommended including as little student information as possible, noting that school districts are already required to forward any threat assessment documentation to a student's new district.

Response: The agency provides the following clarification. The information and reporting required through Sentinel is narrowly tailored to comply with state law to achieve the essential function of protecting student safety. In addition, the agency recognizes that protection of personally identifiable information is of the utmost importance and will adhere to state and federal requirements regarding the protection of student privacy. Under FERPA, an educational agency may disclose certain information without consent only if certain conditions are met (34 Code of Federal Regulations (CFR) §99.31). In addition, an educational agency or institution may disclose personally identifiable information from an education record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals (34 CFR §99.36).

Comment: The Texas Public Charter Schools Association (TPCSA) suggested that TEA consider attestation for certain documents rather than requiring a full document upload for each

requirement. Alternatively, they proposed requiring complete documentation from a subset of campuses rather than from each campus every year. They also noted that a four-year cycle to update documents would align with TEA's audit cycle.

Response: The agency provides the following clarification. The document repository is a tool to support districts and is only required to be utilized once the district is informed of a District Vulnerability Assessment (DVA) as part of the required four-year review cycle.

Comment: TPCSA recommended that TEA clarify rule language related to "additional required documentation." They pointed out that in two sections, DVA and Intruder Detection Audit (IDA), the language requires that "any documentation requested by TEA for a DVA/IDA must be uploaded to Sentinel." However, it is unclear what is meant by "any documentation," and no timeline for submission is included.

Response: The agency provides the following clarification. "Additional required documentation" provides the agency the flexibility to request documentation that may be unique to the district's situation pertaining to any one of the school safety programs in a timeline determined by the agency or a timeline determined by the agency in collaboration with the school district.

Comment: TPCSA suggested that TEA update the emergency management portion of the rule to help ease implementation challenges.

Response: The agency disagrees, as the emergency management requirements are critical to ensuring effective coordination during statewide or localized emergencies. These requirements play a vital role in enabling timely and accurate reporting to the State Operations Center, which is essential for facilitating a coordinated response and ensuring the safety of all affected individuals, while only collecting the minimal amount of information to ease the requirements on districts. Therefore, any changes to this language could undermine the effectiveness of emergency response efforts.

Comment: A district administrator expressed concern that the definition of "emergency response" in the rule is overly broad, and the requirement to submit information into Sentinel could become unduly burdensome. The commenter noted that the broad definition could include incidents such as 911 misdials, student fights, other relatively minor student disciplinary matters, and even reports of gas or electrical smells, which could result in excessive reporting, diverting attention and resources from more serious threats, and creating unnecessary administrative overload.

Response: The agency disagrees as the language describing "events requiring an emergency response" comes directly from TEC, §37.1083(h).

Comment: TPCSA noted that the proposed rule requires closure information to be "immediately recorded" in Sentinel during a localized emergency. They pointed out that updating Sentinel during an emergency may not be the most urgent task for schools and recommended that TEA allow schools to provide closure information within three business days.

Response: The agency disagrees with the suggestion to allow schools three business days to report closure information. Timely submission of this data is critical, as it is often requested by the Texas Division of Emergency Management (TDEM) or state leadership during a statewide or localized emergency. Delaying the reporting of closure information would hinder the

ability to make informed and effective decisions that impact broader response efforts. Immediate updates are essential to ensure coordinated actions across the state, helping to protect the safety and well-being of affected communities during emergencies.

Comment: TPCSA noted that the Sentinel system requires localized emergency reporting but is not designed to accommodate localized situations. Schools are unable to report a single campus closure--only a whole district closure--even though individual campuses may close due to various issues, such as air conditioning failure, flooding, or a weapon on campus. They suggested that a section for notes or a dropdown menu with a "reason for closure" would help TEA track the types of localized emergencies more effectively.

Response: The agency provides the following clarification. The Sentinel system allows for reporting closures down to the specific campus level; however, this currently needs to be managed at the district level. TEA is actively considering a more localized approach to campus closures, which would include the addition of campus-level administration for greater flexibility in reporting.

Comment: TPCSA, TASB, and three district administrators expressed concerns regarding the proposed timeline for the implementation of the BTA system in Sentinel. They requested that schools be allowed to continue using their existing systems for the 2024-2025 school year and transition into full implementation in the 2025-2026 school year or beyond. They emphasized that the current timeline is rushed and inconsistent with effective program development, posing significant challenges for large districts with established processes. The administrators urged TEA to extend the timeline, allowing for a phased rollout and for districts with strong programs to continue using their current methods. They requested that TEA provide a longer implementation runway to minimize unintended consequences and ensure a smooth transition.

Response: The agency agrees and has modified subsection (e)(1)(A) at adoption to be effective beginning August 1, 2025.

Comment: Four Texas district administrators expressed concern that the requirement to upload all BTAs, inclusive of student discipline records, conducted prior to August 1, 2025, into the Sentinel system represents a monumental task that will consume significant district resources. The commenters stated that this retrospective reporting mandate places a heavy administrative burden on schools, particularly without the allocation of additional funding or personnel to support such an extensive effort.

Response: The agency agrees, and subsection (e)(1)(B), relating to implementation timeline, has been modified at adoption to apply to new BTAs conducted after August 1, 2025. Student discipline records will continue to be transferred via Texas Records Exchange (TREx) or other method determined by the agency.

Comment: One Texas district administrator noted that the specific instruction provided by the Texas School Safety Center (TxSSC) in their training curricula does not align with the guidance and instruction found within the Sentinel Behavioral Threat Assessment and Management Manual and Field Guide. The commenter emphasized that the threat assessment model described in the Field Guide for Sentinel and the one offered in the state's official training appear to be two distinct models.

Response: The agency provides the following clarification. The TEA Manual and Field Guide have been thoroughly reviewed by TxSSC, and adjustments were made to ensure alignment

with their feedback. Such collaboration ensures consistency between the training materials provided by TxSSC and Sentinel and ensures a consistent approach to behavioral threat assessments across the state. In addition, the TEA Manual and Field Guide have been updated to include references to primary sources and research.

Comment: Two district administrators expressed concerns that requiring staff to input information into multiple systems, including retroactively uploading over 5,000 historical BTAs into Sentinel, would hinder collaboration, reduce efficiency, and consume valuable time that could be spent supporting students. They emphasized that their current comprehensive systems, which integrate bullying, harassment, and BTAs, are critical for a holistic approach to student safety. The commenters stated that requiring the use of both Sentinel and existing systems would create unnecessary administrative burdens, and they recommended either allowing districts to integrate their current systems with Sentinel or enabling Sentinel to integrate with existing platforms.

Response: The agency provides the following clarification. The current rule aligns with the statutory requirements outlined in TEC, §37.115. It is designed to ensure that critical information is captured and accessible to support early intervention and collaboration of cases when there is potential harm to others and is standardized across the state. The rule does not prohibit a district from using local resources or additional systems for further documentation and management beyond the scope of legislative requirements.

Comment: One district administrator noted that their district operates with four different calendars due to having schools across Texas, but Sentinel currently only allows for one calendar to be used.

Response: The agency agrees and is in the process of making changes to allow for the input of calendars for each campus by the 2025-2026 school year.

Comment: One Texas district administrator commented that this requirement is not an issue for larger districts, noting that smaller districts are likely pleased with the changes. The commenter stated that since 2018, larger districts have created their own models or signed contracts with Navigate360 and have already invested significant resources into these systems.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One Texas school district administrator commented that this requirement is an unfunded mandate. The administrator stated that focus is on the whole child and the safe and supportive school program context. The commenter feels it will make their schools less safe and want to know when a transfer happens.

Response: The agency provides the following clarification. Sentinel will be the transfer mechanism beginning August 1, 2025. Furthermore, it will streamline and nearly automate the process with a few verification steps.

Comment: One district administrator noted that, like many other school districts, their district developed its own threat assessment instrument and trained staff to implement it. The commenter stated that their locally developed system, based on models provided by TxSSC, has been successfully used by its more than 70 campuses for six years.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One district administrator expressed strong objections to being required to use a lesser threat assessment instrument at this time.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One open-enrollment charter school administrator explained that the majority of their school classrooms are located at licensed hospital facilities, making it challenging to implement many of the requirements for DVAs and IDAs. The commenter stated that since they do not own, operate, or lease any school buildings or facilities, the buildings at the hospital sites are outside the direct control of the open-enrollment charter school. The commenter emphasized that when a classroom is located at a hospital site, this needs to be considered.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One district administrator expressed support for a system that allows for a statewide repository of threat and safety information on students, calling it a worthwhile endeavor and stating that public schools in Texas should be aware if a student enrolling from another school--whether public, private, or charter--has previous threat or safety concerns. However, the commenter stated that the required BTA reporting through Sentinel would be a step backward in school safety, at least for the students and communities they serve, and that it would make their schools less secure.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One Texas school administrator expressed concern that the proposed reporting requirements would significantly increase the number of written reports and paperwork for principals, as each campus principal is responsible for school safety at their respective campus. The commenter pointed out that a district-level staff member who is not physically present on the school campus would not have the necessary knowledge to accurately enter campus-level information into Sentinel.

Response: The agency agrees and is in the process of creating campus principal and principal designee accounts for a more localized management process.

Comment: TPCSA suggested that TEA improve the Sentinel system and its accompanying rules to minimize manual entry and the duplication of efforts. They noted that Sentinel requires significant documentation, which is often already managed or reported through other systems. TPCSA stated that without the ability to import data from these systems, schools are spending hours manually recreating documents in Sentinel.

Response: The agency provides the following clarification. Sentinel is designed to streamline the school safety requirements outlined in statute, offering a more efficient solution than the previous methods of managing documentation. Most of the required reporting within Sentinel is unique to TEA's Office of School Safety and Security requirements. Prior to Sentinel, schools relied on a mix of emails, Qualtrics surveys, paper-based submissions, and other systems, which often resulted in inconsistent and fragmented data collection. Sentinel consolidates these processes into a unified platform, reducing

duplication of efforts and improving the efficiency of data management across schools.

Comment: TPCSA recommended that schools be allowed to import their school calendars rather than manually recreating them. They noted that Sentinel requires each campus calendar, but currently, schools must manually recreate the calendar instead of uploading a copy.

Response: The agency disagrees. Requiring school districts or charter schools to input their calendars directly into Sentinel allows for the statewide aggregation of days when schools are closed during a local or statewide emergency. Additionally, manually inputting specific instructional days enables the system to coordinate other critical school safety processes, such as IDAs and DVAs. This ensures that these audits and assessments are conducted during instructional hours, optimizing state resources and enhancing the effectiveness of safety protocols.

Comment: TPCSA suggested that TEA update the rule to reflect the true fiscal impact on schools. They pointed out that while TEA notes no fiscal impact, schools are assigning and training staff to manually input or upload data into a new, often parallel, system and that this process affects small schools without dedicated safety personnel as well as large districts with many campuses.

Response: The agency disagrees as the information required to be reported through the new system is the same as that which is mandated by other existing processes, as outlined in TEC §§37.1083, 37.1084, and 37.115. The transition to the Sentinel system is designed to consolidate and streamline reporting requirements, not to introduce additional burdens. This shift allows for more efficient data management while ensuring compliance with statutory safety obligations, ultimately reducing duplicative efforts over time.

Comment: Five district administrators noted that the rule mandates the use of a new, untested threat assessment instrument that does not align with established, research-based models such as those provided by TxSSC, Comprehensive School Threat Assessment Guidelines (CSTAG), or Salem-Keizer, all of which have been empirically validated. They stated that the proposed tool has not been adequately researched or piloted, and its implementation ahead of the 2025 school year raises concerns about its effectiveness and statutory compliance. The administrators stressed that TEC, §37.115, requires the use of research-based best practices for threat assessments, yet the proposed rule exceeds statutory authority by mandating an unproven tool. They urged TEA to update the rule to allow flexibility, either by establishing minimum BTA tool requirements or adopting a list of approved models that schools can use, with the option to upload findings into Sentinel. Furthermore, they emphasized the need for a longer transition timeline to avoid disrupting existing, effective systems.

Response: The agency offers the following clarification. The BTA process developed by the agency is grounded in extensive research and informed by multiple evidence-based models, including National Threat Assessment Center, Salem-Keizer, and CSTAG. Additionally, it draws from successful state models such as those implemented in Virginia, Pennsylvania, and Florida. Rather than relying on a single framework, the agency has adopted best practices from a variety of sources to ensure a comprehensive and effective approach to threat assessments. A list of these resources is now available in the TEA Manual and Field Guide.

Comment: One Texas district administrator noted that student disciplinary records would also be required to be uploaded into Sentinel.

Response: The agency provides the following clarification. In accordance with TEC, §25.036, student disciplinary records and BTAs are currently uploaded into TREx for transfer to a district receiving a transferred student. Sentinel will be the secure platform for BTA transfer in the future.

Comment: TPCSA suggested that Sentinel be connected with existing TEA tools, such as AskTED, to eliminate duplicative reporting requirements for information that TEA already possesses. They pointed out that the current rule requires schools to manually update information such as the superintendent's name and contact details, school addresses, and emergency contact information, even though schools already provide this data through processes in the AskTED tool.

Response: The agency agrees that duplicative reporting of information already available through TEA's systems, such as AskTED, places an unnecessary burden on district staff. TEA is actively working with the relevant teams to integrate Sentinel with AskTED to minimize redundancies and streamline data reporting efforts. This integration will ensure that information, such as superintendent contact details and school addresses, will automatically synchronize across systems, reducing the need for manual updates and allowing district staff to focus on more critical tasks.

Comment: Four Texas district administrators and TPCSA raised concerns about the Sentinel system's focus solely on threat assessments, which they believe fragments information and undermines a multidisciplinary approach to student safety. They requested flexibility in choosing from approved BTA tools or uploading data from existing systems like Raptor and PowerSchool. They also recommended creating a repository in the Sentinel BTA module for documents related to emergency operations and safety procedures. Additionally, the administrators objected to mandating a specific assessment tool, given their existing systems already meet state requirements. They urged TEA to collaborate with third-party vendors to integrate Sentinel with current digital platforms and requested a longer transition timeline if the Sentinel tool remains mandatory.

Response: The agency disagrees. Allowing school systems to continue using their own unique threat assessment systems creates significant misalignment across the state. This lack of standardization results in inconsistencies in how data is collected, shared, and understood between districts, making it difficult for state and regional entities to provide cohesive support. Furthermore, it impedes the ability to efficiently coordinate threat responses and hinders the seamless communication between districts and external agencies due to varying processes, language, and protocols. Standardizing the system ensures a uniform approach, fostering greater collaboration and more effective statewide threat management.

Comment: TPCSA expressed that TEA and TxSSC need to agree on which entity will ultimately manage the DVAs, audits, and reporting timelines. They noted that Sentinel's DVA requires information that duplicates the Emergency Operations Plans (EOPs) required by TxSSC, resulting in multiple audits since TxSSC conducts audits every three years, while TEA audits every four years, both requiring mostly the same documentation. TPCSA stated that schools need TEA and TxSSC to create

a clear auditing process that ensures safety while reducing redundancy and unnecessary administrative burden.

Response: The agency provides the following clarification. TxSSC is statutorily charged with reviewing local education agencies' EOPs, while the DVAs assess the implementation of these reviewed EOPs down to the campus and staff level. To streamline this process and reduce redundancy, TxSSC is automatically uploading the reviewed EOP for each district into Sentinel, thereby minimizing the need for multiple uploads by districts. This coordinated approach ensures that safety audits and assessments are thorough and effective, without placing an unnecessary administrative burden on districts.

Comment: Two Texas district administrators expressed concerns that the proposed rule would mandate BTA teams under the Safe and Supportive Schools Program to use Sentinel instruments, manuals, and the field guide, requiring retraining for all team members. They believe this change would make campuses less safe by leading to fewer reports due to the cumbersome nature of the system. The commenters stated that the new threat assessment tool is less sophisticated than the ones currently in use, and its manual maintenance requirements are labor-intensive and inefficient. The commenters also stated that this unfunded mandate places a financial burden on districts statewide, contradicting TEA's proposal, and that switching systems after six years will also necessitate extensive retraining, adding to the already numerous state-mandated training requirements.

Response: The agency disagrees as the use of Sentinel instruments, manuals, and the field guide is aligned with TxSSC training, ensuring consistency in the application of threat assessment protocols. The agency will provide resources and support, including training opportunities, to assist in the transition. This alignment with TxSSC processes will not only standardize reporting but also enhance the overall effectiveness of school safety procedures, ultimately improving the protection of students across all districts.

Comment: TPCSA noted that ensuring a secure system to store and transfer students' BTAs as they move between school districts is a significant advantage. They stated that previously, with the TReX system, schools would sometimes forget to send BTAs to a new district because it was a separate, manual process with no secure transfer method.

Response: The agency agrees. In accordance with TEC, §25.036, student disciplinary records and BTAs are currently uploaded into TReX for transfer to a district receiving a transferred student. Sentinel will be the secure platform for that transfer in the future and will further support the transfer process by streamlining the process through connections with other student data systems like the Texas Student Data System (TSDS).

Comment: Three Texas district administrators expressed concerns that mandating a specific BTA exceeds the commissioner's authority, stating that TEC, §37.1083, does not specifically delegate authority to the agency to establish a statewide BTA instrument and does not grant the commissioner authority beyond monitoring and technical assistance.

Response: The agency disagrees. TEC, §37.1083(k), includes explicit rulemaking authority. In addition, TEC, §37.1083(b), mandates coordinated monitoring of school district safety and security requirements. The current system suffers from a lack of coordination with districts collecting, reporting, and sharing information in disparate formats that lead to administrative inefficiency at the local and state level.

TEC, §37.1083(c), similarly mandates technical assistance from the agency in coordination with TxSSC to support the implementation and operation of safety and security requirements. TEC, §37.1083(h) and (i), additionally allow the agency to require districts to submit information necessary for the agency to monitor the implementation and operation of school district safety and security requirements and compliance with TEC, Chapter 37, Subchapters D and G.

Similarly, TEC, §37.115(l), includes explicit rulemaking authority. TEC, §37.115(b)(4), requires the agency to adopt rules that incorporate research-based best practices for school safety, including providing for multidisciplinary and multiagency collaboration to assess risks and threats in schools and provide appropriate interventions, including rules for the establishment and operation of threat assessment teams. TEC, §37.115(k), further dictates that a team must report to the agency in accordance with guidelines developed by the agency information regarding the number and description of the type of threats reported and the outcome of each assessment, including any disciplinary action taken to include a change in school placement; any action taken by law enforcement; or a referral to counseling or other services, among other information listed in the statute.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §37.1083, which requires school districts and open-enrollment charter schools to submit information requested by the Texas Education Agency in their efforts to monitor the implementation and operation of school district safety and security requirements. This section grants the commissioner rulemaking authority related to administration, implementation, and operation of school safety and security requirements; and TEC, §37.115, which grants the commissioner rulemaking authority related to the implementation of threat assessments.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §37.1083 and §37.115.

§103.1213. Required Reporting through Sentinel.

(a) In accordance with Texas Education Code (TEC), §37.1083 and §37.115, each school district and open-enrollment charter school shall submit information requested by the Texas Education Agency (TEA) in their efforts to monitor the implementation and operation of school district safety and security requirements. TEA may review school district records as necessary to ensure compliance with this section and TEC, Chapter 37, Subchapters D and G.

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

(1) Discipline record--a student's cumulative record of formal disciplinary actions reported through the Public Education Information Management System from the date that the student was first enrolled in a public school and that the local education agency has retained in accordance with the records retention policy.

(2) School system--a term that has the meaning assigned by §61.1031(a)(6) of this title (relating to School Safety Requirements).

(3) Sentinel--TEA's formal school safety system designed to collect, process, store, and distribute school safety and security information.

(c) Sentinel serves as a repository for all safety and security-related data submitted to TEA by school districts, open-enrollment charter schools, campuses, and other entities.

(d) Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements under this section is confidential under Texas Government Code, §418.177 and §418.181, and not subject to disclosure under Texas Government Code, Chapter 552.

(e) Each school system shall report the following information through Sentinel.

(1) Behavioral Threat Assessments (BTAs).

(A) Effective August 1, 2025, when conducting a BTA under TEC, §37.115, members of a threat assessment team shall utilize the threat assessment instrument, manual, and field guide in Sentinel, which are consistent with the model policies published by the Texas School Safety Center (TxSSC).

(B) Effective August 1, 2025, school systems shall utilize Sentinel to securely transfer under TEC, §25.036, any threat assessment conducted on a student to a receiving school system when a student transfers to a new school district. All BTAs for a student are subject to the transfer requirement. Any BTAs conducted prior to August 1, 2025, that are associated with a student transfer shall be uploaded into Sentinel in a manner determined by TEA.

(2) District Vulnerability Assessments (DVAs).

(A) In accordance with TEC, §37.1083, the TEA Office of School Safety and Security will monitor the implementation of requirements related to school safety and security, to include conducting detailed vulnerability assessments.

(B) Any documentation requested by TEA for a DVA must be uploaded to Sentinel.

(3) Emergency management.

(A) On or before June 30th of each year, all school systems shall input their upcoming school year calendar into Sentinel. Any changes to the school year calendar shall be updated in Sentinel within three business days after approval by district leadership.

(B) On or before June 30th of each year, school systems must verify that all district facilities listed in Sentinel reflect the correct address and campus emergency contact information.

(C) If a school system closes for a localized emergency, closure information must be immediately recorded in Sentinel.

(D) All school systems shall submit information related to events requiring an emergency response, including the discovery of a firearm on a campus in accordance with TEC, §37.1083(h)(1), in the Sentinel portal. This is inclusive of notifications regarding a bomb threat or terroristic threat, as outlined in TEC, §37.113. Submission of information in the Sentinel portal does not substitute the requirement for local law enforcement notification of certain activities in TEC, §37.015.

(E) Upon completed review of a school system's multi-hazard emergency operations plan, the TxSSC may upload a copy of that plan, including all required appendices, to the Sentinel portal.

(F) Subsequent to a school system superintendent change, the direct contact information of the superintendent (or person acting in that capacity) must be updated in Sentinel within three business days of a corresponding board meeting.

(4) Intruder Detection Audits (IDAs).

(A) In accordance with TEC, §37.1084, the TEA Office of School Safety and Security will establish a school safety review team in each region served by a regional education service center.

Teams shall annually conduct on-site general intruder detection audits of school district campuses in the team's region.

(B) Any documentation requested by TEA for an IDA must be uploaded to Sentinel.

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 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 289. RADIATION CONTROL

SUBCHAPTER G. REGISTRATION REGULATIONS

25 TAC §289.301

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts an amendment to §289.301, concerning Registration and Radiation Safety Requirements for Lasers and Intense-Pulsed Light Devices.

The amendment to §289.301 is adopted with changes to the proposed text as published in the September 13, 2024, issue of the *Texas Register* (49 TexReg 7177). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The adoption amends Texas Administrative Code, Title 25, Chapter 289 concerning registration and radiation safety requirements for lasers and intense-pulsed light devices. The amendment adds and clarifies registration requirements, personnel requirements, facility requirements, and laser radiation machine requirements to protect workers and the public from laser radiation machine hazards.

The signage requirements are updated to match the guidelines set forth by the American National Standards Institute (ANSI). Specific warning labels, such as "Danger," "Warning," and "Caution," communicate the potential hazards associated with laser operations and promote a safer working environment for employees and visitors. Referencing the standard allows laser facilities to adhere to the most current national standards, which are often proposed and updated faster than regulatory amendments can be implemented.

COMMENTS

The 31-day comment period ended October 14, 2024.

During this period, DSHS received comments regarding the proposed rule from four commenters, including Baylor Scott and White, Rice University, Laser Safety Services, and 3M. A summary of comments relating to §289.301 and DSHS responses follows.

Comment: Commenter wants DSHS to consider changing the reference of "Laser Notice No. 50" to either "current version of Laser Notice" or "Laser Notice No. 56." Laser Notice No. 56 will be replaced by the Food and Drug Administration (FDA) by the end of this year.

Response: DSHS agrees and revised §289.301(b)(4) to reflect the "current Laser Notice guidance document."

Comment: Commenter requests DSHS add language to the rule to outline procedures for assessing laser safety programs, inspections, and track training of personnel.

Response: DSHS appreciates the commenters request. In §289.301(b)(5), the rule currently references the subsections that include the requirements requested.

Comment: Commenter requests the removal of example statements from ANSI on hazard sign requirements.

Response: DSHS appreciates the comments and revised §289.301(u)(3)(A)(ii)(III) and (IV), §289.301(u)(3)(B)(ii)(V), and §289.301(u)(3)(C)(ii)(III) to remove the laser-specific examples and replace with "optical density, laser type, wavelength, and wattage."

Comment: Commenter would like DSHS to consider adding requirements to include Laser-Generated Air Contaminants (LGACs).

Response: DSHS appreciates the comment and the commenter's concern for LGACs. However, DSHS Radiation Program's authority only applies to the receipt, possession, use, ownership, or acquisition of laser radiation machines.

Comment: Commenter requests DSHS consider strengthening training and certification requirements for the LSO, and specifically recommends the requirements of either the Board of Laser Safety (BLS) or the National Council on Laser Certification (NCLC).

Response: DSHS Radiation Program appreciates the standards set by BLS and NCLC, but declines to make the suggested change at this time. DSHS will consider the requested revision in a future rule project to ensure the public has the opportunity to comment on the proposed revision.

Comment: Commenter would like DSHS to enhance and clarify LSO duties.

Response: DSHS appreciates the comment but declines to make the suggested change. The rule sets the minimum requirements for safe use of laser radiation machines. A facility may implement additional safety requirements as it sees fit.

Comment: Commenter wants DSHS to add "firm language" to LSO duties concerning control and authority to institute corrective actions.

Response: DSHS appreciates the comment but declines to make the suggested change. The rule sets the minimum requirements for safe use of laser radiation machines. A facility may implement additional safety requirements as it sees fit.

Comment: Commenter wants DSHS to add requirements for lung or respiratory protection from LGACs.

Response: DSHS appreciates the comment but declines to make the suggested change. The rule sets the minimum requirements for safe use of laser radiation machines. A facility may implement additional safety requirements as it sees fit.

Comment: Commenter requests DSHS strengthen survey requirements and conduct laser inspections.

Response: DSHS Radiation Control Program understands the commenter's concern. The program conducts inspections within the resources available to the program and takes into consideration possible risks in determining inspection frequency.

Comment: Commenter requests DSHS strengthen quality assurance/quality control requirements.

Response: DSHS appreciates the comment but declines to make the suggested change. The rule sets the minimum requirements for safe use of laser radiation machines. A facility may implement additional safety requirements as it sees fit.

Comment: Commenter requests DSHS change laser light show registration requirements. Specifically, to only require registration of light shows using "pulsed lasers, or using high-power lasers (where one or more emitted beams is over 50 watts)."

Response: DSHS appreciates the comment, but respectfully declines to revise the rule in response to this comment. DSHS's current process requires registration for all 3B and 4 lasers, including lasers used in laser light shows. This is to protect the public and ensure all shows are conducted safely.

Comment: Commenter requests to revert laser hazard signage requirements to be posted "within the laser-controlled area," instead of "at the entryway."

Response: DSHS appreciates the comment, but respectfully declines to revise the rule. DSHS considers the entry way within the laser-controlled area if it is noted on the registrant's sketch or description of the floor plan.

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code Chapter 401 (the Texas Radiation Control Act), which requires DSHS radiation control rules and the regulatory program to be compatible with federal standards and regulations; §401.051, which provides the authority to adopt rules and guidelines relating to the control of sources of radiation; §401.064, which provides authority to adopt rules related to inspection of x-ray equipment; §401.101, authorizing the registration of facilities possessing sources of radiation; Chapter 401, Subchapter J, which authorizes enforcement of the Act; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

§289.301. Registration and Radiation Safety Requirements for Lasers and Intense-Pulsed Light Devices.

(a) Purpose.

(1) This section establishes requirements for protection against all classes of laser radiation and intense-pulsed light (IPL) device hazards. This section includes the responsibilities of the registrant and the laser safety officer (LSO), laser and IPL device hazard control methods, training requirements, and notification of injuries.

(2) For the purpose of this section, any reference to a class of laser includes both International Electrotechnical Commission (IEC)

and United States Food and Drug Administration (FDA) classifications, as appropriate.

(3) This section establishes requirements for the registration of a person who receives, possesses, acquires, uses, or transfers Class IIIb (3B), or Class IV (4) lasers in the healing arts, veterinary medicine, and industrial, academic, research and development institutions, and of a person in the business of providing laser services.

(A) A person must not use a Class 3B or Class 4 laser or perform laser services except as authorized in a certificate of registration issued by the Texas Department of State Health Services (department) as specified in this section.

(B) A person who receives, possesses, uses, owns, or acquires a Class 3B or Class 4 laser before receiving a certificate of registration is subject to the requirements of this chapter.

(4) Class I (1) lasers, Class II (2) lasers, FDA Class IIIa (3a) lasers, IEC Class 3R lasers, and IPL devices are not required to be registered. However, the use of Class 1, Class 2, Class 3a, Class 3R lasers, and IPL devices is subject to applicable requirements in this section.

(b) Scope.

(1) Except as otherwise provided, this section applies to a person who receives, possesses, acquires, transfers, or uses lasers that emit or may emit laser radiation. Lasers or IPL devices must not be used on humans or animals unless under the supervision of a licensed practitioner of the healing arts (practitioner) or veterinary medicine and unless the use of lasers or IPL devices is within the scope of their professional license. This section does not limit the intentional exposure of patients to laser or IPL device radiation for the purpose of diagnosis, therapy, or treatment by a practitioner of the healing arts or veterinary medicine within the scope of their professional license. This section does not apply to the manufacture of lasers or IPL devices.

(2) This section applies to lasers operating at wavelengths between 180 nanometers (nm) and 1 millimeter (mm).

(3) This section applies to IPL devices. These devices must be Class 2 or Class 3 surgical devices certified as complying with the designing, labeling, and manufacturing standards of the FDA.

(4) This section applies to lasers meeting the requirements of IEC standards 60825-1 and 60601-2-22 as allowed by the FDA Centers for Devices and Radiological Health in the current Laser Notice guidance document.

(5) In addition to the requirements of this section, all registrants authorized to use Class 3B and Class 4 lasers are subject to the following requirements:

(A) §289.203 of this chapter (relating to Notices, Instructions, and Reports to Workers; Inspections) except for subsection (d), "Notifications and reports to individuals," and information relating to ionizing radiation or exposure history contained in subsection (i), "Notice to employees."

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

(C) §289.205 (a), (b), and (h) - (n) of this chapter (relating to Hearing and Enforcement Procedures); and

(D) §289.231 (d), (f) - (j), (aa), (bb), (ff), (kk), and (ll)(1), (2), and (5) of this chapter (relating to General Provisions and Standards for Protection Against Machine-Produced Radiation) and the applicable definitions in §289.231(c) of this chapter.

(c) Prohibitions.

(1) The department prohibits the use of lasers and IPL devices posing a significant threat or endangering occupational or public health and safety as specified in §289.205 and §289.231 of this chapter.

(2) An individual must not be intentionally exposed to laser or IPL radiation above the maximum permissible exposure (MPE) unless a practitioner has authorized such exposure.

(A) Exposure of an individual for training, demonstration, or other non-healing arts purposes is prohibited unless authorized by a practitioner.

(B) Exposure of an individual for the purpose of healing arts screening is prohibited, except as specifically authorized by the department.

(C) Research and development using radiation machines on humans is prohibited except for the following.

(i) Any research using radiation machines on humans must be approved by an Institutional Review Board (IRB) as required by 45 Code of Federal Regulations (CFR) Part 46, and 21 CFR Part 56. The IRB must include at least one physician to direct any laser radiation or IPL device use as specified in subsection (b)(1) of this section.

(ii) Facilities with radiation machines, with investigational device exemptions, involved in clinical studies must follow regulations governing the conduct of clinical studies and applying to the manufacturers, sponsors, clinical investigators, IRBs, and the medical device. These regulations include:

(I) 21 CFR Part 812, Investigational Device Exemptions;

(II) 21 CFR Part 50, Protection of Human Subjects;

(III) 21 CFR Part 56, Institutional Review Boards;

(IV) 21 CFR Part 54, Financial Disclosure by Clinical Investigators; and

(V) 21 CFR Part 820, Subpart C, Design Controls of the Quality System Regulation.

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

(1) Access to laser radiation--Proximity to radiation not blocked by an intervening barrier or filter.

(2) Accessible emission limit (AEL)--The maximum accessible emission level permitted within a particular class.

(3) Accessible laser radiation--Proximity to radiation not blocked by an intervening barrier or filter.

(4) American National Standards Institute (ANSI) standards--Specific standards for lasers and IPL devices published by the American National Standards Institute.

(5) Aperture--An opening through which radiation can pass.

(6) Beam--A collection of rays characterized by direction, diameter (or dimensions), and divergence (or convergence).

(7) Class 1 laser--Any laser not permitting human exposure during operation to levels of visible laser radiation more than the accessible emission limits contained in ANSI.

(8) Class 2 laser--Any laser permitting human exposure during operation to levels of visible laser radiation more than the accessible emission limits of Class 1 lasers contained in ANSI but does not permit human exposure during operation to levels of visible laser radiation more than the accessible emission limits of Class 2 lasers contained in ANSI.

(9) Class 3a laser, IEC Class 3R--Any laser permitting human exposure during operation to levels of laser radiation more than the accessible emission limits of Class 2 lasers contained in ANSI but does not permit human exposure during operation to levels of laser radiation more than the accessible emission limits of Class 3a lasers contained in ANSI.

(10) Class 3B laser--Any laser permitting human exposure during operation to levels of laser radiation more than the accessible emission limits of FDA Class 3a lasers in ANSI but does not permit human exposure during operation to levels of laser radiation in excess of the emission limits of Class 3B lasers contained in ANSI.

(11) Class 4 laser--Any laser permitting human exposure during operation to levels of laser radiation more than the accessible emission limits of Class 3B lasers contained in ANSI.

(12) Coherent--A light beam is coherent when the electric vector at any point in it is related to any other point by a definite, continuous function.

(13) Collateral radiation--Any electromagnetic radiation, except laser radiation, emitted by a laser that is physically necessary for its operation. The applicable, accessible emission limits for collateral radiation are found in 21 CFR §1040.10.

(14) Continuous wave--A laser operating with a continuous output for greater than or equal to 0.25 seconds is regarded as a continuous wave laser.

(15) Controlled area--An area where the occupancy and activity of those within are subject to control and supervision by the registrant for the purpose of protection from radiation hazards.

(16) Divergence--The increase in the diameter of the laser beam with propagation distance from the exit aperture. This is also referred to as beam spread. The value of the divergence is expressed in radians or milliradians.

(17) Electromagnetic radiation--Radiation consisting of electromagnetic waves, including x-ray, ultraviolet, visible, infrared, and radio waves occupying various portions of the electromagnetic spectrum and differing only in frequency, wavelength, or photon energy.

(18) Electronic product--Any product or article defined as follows:

(A) any manufactured or assembled product, when in operation:

(i) contains or acts as part of an electronic circuit; and

(ii) emits, or in the absence of effective shielding or other controls would emit electronic product radiation; or

(B) any manufactured or assembled article intended for use as a component, part, or accessory of a product described in subparagraph (A) of this paragraph and when in operation emits, or in the absence of effective shielding or other controls would emit radiation.

(19) Energy--The capacity for doing work. Energy content is commonly used to characterize the output from pulsed lasers and is expressed in joules (J).

(20) Engineering controls--Control measures designed or incorporated into the laser or laser system (e.g., interlocks, shutters, watchdog timer) or its application.

(21) Healing arts--Any system, treatment, operation, diagnosis, prescription, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

(22) Infrared radiation--The region of the electromagnetic spectrum between the long-wavelength extreme of the visible spectrum (about 0.7 micrometer (μm)) and the shortest microwaves (about 1 mm).

(23) Inoperable--Incapable of operation because of damage, disassembly, removal, or inactivation of key components that cannot be restored without significant repair or renovation.

(24) Institutional Review Board (IRB)--Any board, committee, or other group formally designated by an institution to review, approve the initiation of, and conduct a periodic review of biomedical research involving human subjects.

(25) Intense-pulsed light (IPL) device--A device that emits radiation to energy density levels that could cause bodily harm and used for photothermolysis. This device is a Class 2 or Class 3 surgical device certified as complying with FDA designing, labeling, and manufacturing standards.

(26) Invisible radiation--Laser or collateral radiation having wavelengths greater than or equal to 180 nm but less than or equal to 400 nm or greater than 710 nm but less than or equal to 1.0×10^6 nm (1 millimeter).

(27) Irradiance--Radiant power incident per unit area upon a surface, expressed in watts-per-square-centimeter ($\text{W}\cdot\text{cm}^{-2}$).

(28) Joule (J)--A unit of energy. One joule is equal to one watt • second.

(29) Laser--An electronic device that emits stimulated radiation to energy density levels that could cause bodily harm. A laser may also produce an intense, coherent, directional beam of light by stimulating electronic or molecular transitions to lower energy levels. The term "laser" includes the assembly of electrical, mechanical, and optical components associated with the laser. A laser can be a component of a product or system.

(30) Laser light show--Use of lasers for entertainment, advertising display, or artistic composition.

(31) Laser product--Any manufactured product or assembly of components constituting, incorporating, or intending to incorporate a laser and is classified as a Class 1, Class 2, Class 3a, Class 3B, or Class 4 laser product according to the performance standards set by the FDA. A laser intended for use as a component of an electronic product must be considered a laser product. A laser product can contain an enclosed laser with an assigned class number higher than the inherent capability of the laser product in which it is incorporated and where the product's lower classification is appropriate due to the engineering features limiting accessible emission.

(32) Laser safety officer (LSO)--An individual with knowledge of and the authority and responsibility to apply appropriate laser radiation protection rules, standards, and practices, and is specifically authorized on a certificate of laser registration.

(33) Manufacturer--Any person who designs, manufactures, assembles, fabricates, or processes a finished laser device.

(34) Maximum permissible exposure (MPE)--The level of laser radiation a person may be exposed to without hazardous effects or adverse biological changes in the eye or skin. Maximum permissible exposures to laser radiation may be found in ANSI.

(35) Medical event--Any adverse patient health effect directly resulting from the use of laser equipment on an individual.

(36) Mobile service operation--The provision of lasers and personnel at temporary sites for limited time periods. The lasers may be fixed inside a motorized vehicle or a portable laser that can be removed from the vehicle and taken into a facility for use.

(37) Nominal hazard zone (NHZ)--The space where the level of direct, reflected, or scattered radiation during operation exceeds the applicable MPE. Exposure levels beyond the boundary of the NHZ are below the applicable MPE level.

(38) Optical density (D_λ)--The logarithm to the base ten of the reciprocal of the transmittance. $D_\lambda = -\log_{10} \tau_\lambda$, where τ_λ is transmittance.

(39) Personal protective equipment (PPE)--Device used to mitigate hazards associated with laser use, including laser eye protection (LEP), protective clothing, and gloves.

(40) Practitioner--A person licensed under Texas Occupations Code Title 3 Health Professions. A practitioner's use of a laser is limited to the person's scope of professional practice as determined by the appropriate licensing agency.

(41) Protective housing--An enclosure surrounding the laser preventing access to laser radiation above the applicable MPE level. The aperture through which the useful beam is emitted is not part of the protective housing. The protective housing may enclose associated optics and a workstation and must limit access to other associated radiant energy emissions and to electrical hazards associated with components and terminals.

(42) Provider of lasers--A person providing lasers on a routine basis to a facility for limited time periods.

(43) Pulse duration--The duration of a laser pulse. This is measured as the time interval between the half-power points on the leading and trailing edges of the laser pulse.

(44) Pulsed laser--A laser delivering its energy in the form of a single pulse or a train of pulses. In this section, the duration of a pulse is less than 0.25 seconds.

(45) Reflection--The deviation of laser radiation following incidence on a surface.

(46) Source--A laser or a laser-illuminated reflecting surface.

(47) Supervision--Delegating to a person under the practitioner's authority, the task of applying laser radiation to persons or animals under this section. The practitioner assumes full responsibility for these tasks and must ensure the tasks are administered correctly.

(48) Transmission--Passage of laser radiation through a medium.

(49) Ultraviolet radiation--Electromagnetic radiation with wavelengths shorter than those of visible radiation; for this section, 0.18 to 0.4 μm .

(50) Veterinarian--A person licensed as a veterinarian by the Texas Board of Veterinary Medical Examiners.

(51) Veterinary medicine--When used in this chapter, has the same meaning as found in Texas Occupations Code Chapter 801.

(52) Visible radiation (light)--Electromagnetic radiation that can be detected by the human eye. This term is commonly used to describe wavelengths in the range of 0.4 to 0.7 μm .

(53) Watt--The unit of power or radiant flux. 1 watt equals 1 joule per second.

(54) Wavelength (λ)--The distance between two successive points on a periodic wave having the same phase.

(e) Exemptions.

(1) Lasers in storage or transit are exempt from the requirements of this section. This exemption does not apply to the providers of lasers.

(2) Inoperable lasers are exempt from the requirements of this section.

(3) Class 1, Class 2, and Class 3a lasers, IEC Class 3R lasers, or products and IPL devices are exempt from the registration requirements of subsections (f) and (g) of this section.

(4) Facilities, including academic institutions and research or development facilities, registered for the use of lasers are exempt from the registration requirements of subsection (f) of this section, regarding laser services, and the applicable paragraphs of subsection (g) of this section, to the extent their personnel perform laser services only for the registrant by whom they are employed.

(f) Registration for the use of Class 3B and Class 4 lasers and laser services.

(1) For purposes of this section, use of Class 3B or Class 4 lasers and laser services includes:

(A) possession and use of lasers in the healing arts, veterinary medicine, industry, academics, and research and development institutions;

(B) demonstration or sale of lasers requiring the person to operate or cause a laser to be operated to demonstrate or sell;

(C) provision of lasers on a routine basis to a facility for limited time periods by a provider of lasers. For healing arts facilities, the use of lasers must be directed by a practitioner employed by the contracting facility;

(D) alignment, calibration, installation, or repair; or

(E) laser light shows.

(2) A person who applies for registration as specified in this section and uses a Class 3B or Class 4 laser before receiving a certificate of laser registration is subject to the requirements of this chapter.

(g) Application requirements.

(1) General application requirements.

(A) Application for certificate of laser registration must be completed on forms prescribed by the department and must contain all the information required by the form and accompanying instructions.

(B) An LSO must be designated on each application form. The qualifications of that individual must be submitted to the department with the application. The LSO must meet the applicable requirements of subsection (o) of this section and carry out the responsibilities of subsection (p) of this section.

(C) Each application must be accompanied by a completed RC Form 226-01 (Business Information Form), which must contain the legal name of the entity or business. Unless exempt under Texas Business and Commerce Code Chapter 71, the applicant must:

(i) be authorized to conduct business in the State of Texas as listed on the Texas Secretary of State (SOS) website; and

(ii) file an assumed name certificate with the Texas SOS if using an assumed name in their application.

(D) Each application for a certificate of laser registration must be accompanied by the appropriate fee prescribed in §289.204 of this chapter.

(E) An application for a certificate of laser registration may include a request for authorization of one or more activities.

(F) At any time after filing the original application, the department may require further information to determine whether the certificate of laser registration will be issued or denied.

(G) Applications and documents submitted to the department may be made available for public inspection, except the department may withhold any document or part of a document from public inspection as specified in §289.231(aa) of this chapter.

(2) Application for the use of Class 3B or Class 4 lasers on humans or animals.

(A) In addition to the requirements of subsection (g)(1) of this section, each person having a Class 3B or Class 4 laser for use in the healing arts or for use on animals must submit an application to the department within 30 days after beginning operation of the laser.

(B) Application signatures.

(i) An application for healing arts use must be signed by a practitioner.

(ii) An application for veterinary medicine use must be signed by a licensed veterinarian.

(iii) The signature of the administrator, president, or chief executive officer will be accepted instead of the practitioner's signature if the facility is a licensed hospital or a medical facility.

(iv) A signature by the administrator, president, or chief executive officer does not relieve the practitioner or veterinarian from following the requirements of this section. The LSO must also sign the application.

(C) If a person is furnished a Class 3B or Class 4 laser by a provider of lasers, that person is responsible for ensuring a practitioner authorizes intentional exposure of laser radiation to humans.

(D) The applicant must ensure a laser machine is operated by a person qualified by training and experience to use the laser machine for the purpose requested, and in a manner minimizing danger to occupational and public health and safety.

(3) Application for the use of Class 3B or Class 4 lasers in industrial, academic, and research and development institutions.

(A) In addition to the requirements of subsection (g)(1) of this section, each person having a laser for use in industrial, academic, and research and development institutions must apply to the department within 30 days after beginning operation of the laser.

(B) An application for the use of Class 3B or Class 4 lasers in industrial, academic, and research and development institutions must be signed by the applicant or registrant or a person duly au-

thorized to act on behalf of the applicant or registrant. The LSO must also sign the application.

(4) Application for registration of laser services.

(A) In addition to the requirements of subsection (g)(1) of this section, an applicant who intends to provide laser services described in subsection (f)(1) of this section must apply and receive a certificate of registration from the department before providing the services.

(B) An application for laser services must be signed by the applicant, registrant, or a person duly authorized to act on behalf of the applicant or registrant. The LSO must also sign the application.

(C) Providing services specified in subsection (f)(1) of this section, not specifically authorized by the department, is prohibited.

(D) A service provider must not provide laser machine services for a person who cannot produce evidence of a completed registration application or a valid certificate of registration issued by the department, except for the initial installation of the first machine for a new certificate of registration.

(5) Application for laser light show.

(A) Each applicant must receive a certificate of laser registration for a laser light show before beginning any show.

(B) An application to use Class 3B or Class 4 lasers in a laser light show must be signed by the applicant, registrant, or a person duly authorized to act on behalf of the applicant or registrant. The LSO must also sign the application.

(C) According to subparagraph (A) of this paragraph and in addition to the requirements of subsection (g)(1) of this section, each applicant must submit:

(i) a valid variance issued by the FDA, or evidence of an Annual Report on Radiation Safety Testing of Laser and Laser Light Show Products meeting FDA variance requirements, for the laser intended to be used, with all applicable documents required by the variance; and

(ii) a written notice of the laser light show to be performed in Texas. The information contained in RC Form 301-05 must be provided at least seven days before each show. If, in a specific case, the seven-day period would impose an undue hardship on the applicant, the applicant may, upon written request to the department, obtain permission to proceed sooner.

(6) Application for mobile service operation for Class 3B or Class 4 lasers used in the healing arts and veterinary medicine.

(A) Each applicant must apply for and receive a certificate of laser registration for mobile service operation involving Class 3B or Class 4 lasers before beginning mobile service operation.

(B) In addition to the requirements of subsection (g)(1) of this section, each applicant must submit the address of the established main location where the laser and records will be maintained for inspection. This must be a physical street address, not a post office box number.

(C) An application for mobile service operation for the healing arts must be signed by a practitioner and an application for mobile services for veterinary medicine must be signed by a licensed veterinarian. The LSO must also sign the application.

(h) Issuance of certificate of laser registration.

(1) A certificate of registration application will be approved if the department determines an application meets the Texas Radiation Control Act (Act) requirements and the requirements of this chapter. The certificate of registration authorizes the proposed activity and contains the conditions and limitations the department requires. The certificate of laser registration must be maintained as specified in subsection (cc) of this section.

(2) The department may incorporate in the certificate of laser registration at the time of issuance, or by amendment, additional requirements and conditions concerning the registrant's receipt, possession, acquisition, use, and transfer of lasers subject to this section, as it deems appropriate or necessary to:

- (A) minimize danger to occupational and public health and safety;
- (B) prevent loss or theft of lasers; or
- (C) require additional reports and maintenance records as may be appropriate or necessary.

(3) At the request of the department the registrant must provide additional information after the certificate of laser registration has been issued for the department to determine whether the certificate of laser registration will be modified in accordance with subsection (n) of this section.

(i) Specific terms and conditions of certificates of laser registration.

(1) Each certificate of laser registration issued as specified in this section is subject to the applicable provisions of the Act and the applicable rules in this chapter and orders issued by the department.

(2) Each person registered by the department for laser use as specified in this section must confine use and possession of the laser registered to the locations and purposes authorized in the certificate.

(3) A certificate of laser registration issued under this section must not be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, to any person unless the department authorizes the transfer, in writing.

(4) In determining whether to issue, deny, amend, renew, revoke, suspend, or restrict a certificate of laser registration, the department may consider the technical competence and compliance history of an applicant or holder of a certificate of laser registration.

(5) After an opportunity for a hearing, the department will deny an application, amendment, or renewal of a certificate of laser registration if the applicant's compliance history reveals, within the previous six years, three or more actions have been issued against the applicant assessing administrative or civil penalties, or revoking or suspending a certificate of laser registration.

(j) Registrant responsibilities.

(1) The registrant is responsible for complying with this section and the conditions listed on the certificate of registration.

(2) The registrant must designate a qualified individual as the LSO as specified in subsection (o) of this section and ensure the individual continually performs the responsibilities of the LSO as identified in subsection (p) of this section.

(3) A person must not make, sell, lease, transfer, or lend lasers unless the machine and equipment, when properly placed in operation and used, meet the applicable requirements of this section.

(4) The registrant must notify the department in writing within 30 days of a change in any of the following:

- (A) name and mailing address;
- (B) street address where laser will be used;
- (C) LSO; or
- (D) additional use location.

(5) Each registrant must inventory all Class 3B and Class 4 lasers in their possession at an interval not to exceed 12 months. The inventory record must be maintained for inspection by the department as specified in subsection (cc) of this section and must include:

- (A) the manufacturer's name;
- (B) the model and serial number of the laser;
- (C) a description of the laser (for example, yag, silicon, CO₂, neon);
- (D) the location of the laser (for example, room number); and
- (E) a complete inventory of equipment supplied by a provider of lasers as defined in subsection (d)(42) of this section.

(6) Notification to the department is required within 30 days of:

- (A) any increase in the number of lasers above those authorized by the certificate of laser registration; or
- (B) any change in the category of the machine type or type of use as specified in §289.231(11) or as authorized on the certificate of registration.

(7) The registrant, or the parent company, must notify the department, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy. The notification must include:

- (A) the name of the bankruptcy court; and
- (B) the case name, and number, when known, and the date the petition was filed.

(8) A registrant must not engage a person for services described in subsection (f)(1) of this section until the service provider demonstrates current registration with the department.

(9) Registrants with certificates of laser registration as specified in subsection (g)(5) of this section must have the following documents on site at each laser light show:

- (A) certificate of laser registration;
- (B) FDA variance, or evidence of Annual Report on Radiation Safety Testing of Laser and Laser Light Show Products meeting FDA variance requirements, with all applicable documents required by the variance; and
- (C) instructions for the safe use of lasers as specified in subsection (q)(2) of this section.

(10) Each registrant must maintain records of receipt, transfer, and disposal of Class 3B or Class 4 lasers for inspection by the department. The records must include the following information and be maintained as specified in subsection (cc) of this section:

- (A) manufacturer's name;
- (B) model and serial number of the laser;
- (C) date of the receipt, transfer, and disposal;
- (D) name and address of the person the laser was received from, transferred to, or disposed of; and

(E) name of the person recording the information.

(11) A laser must not be used unless an application for registration is filed with the department, as specified in subsection (g) of this section, within the first 30 days of use. This section does not apply to operation of a laser for installation and calibration.

(12) A service provider must not provide laser services for a person who cannot produce evidence of a completed application for registration or a valid certificate of registration issued by the department, except for:

(A) the initial installation of the first machine for a new certificate of registration; and

(B) the registrant authorized for demonstration and sale, demonstrates a laser machine as specified in paragraph (15) of this subsection.

(13) A person authorized to perform alignment, calibration, installation, and repair of lasers in Texas must maintain:

(A) a daily log including:

(i) date of service;

(ii) name and address of the customer; and

(iii) customer's certificate of registration number, unless the service provided is an initial installation as described in paragraph (12)(A) of this subsection; and

(B) records of all services for inspection by the department as specified in subsection (cc) of this section.

(14) A person authorized to provide lasers must comply with the following.

(A) Providers of equipment must:

(i) ensure all lasers used on humans meet the requirements of this chapter;

(ii) provide lasers only to facilities holding a valid certificate of registration; and

(iii) keep a log of lasers provided in Texas, and record the following information:

(I) date machine provided;

(II) name of customer; and

(III) customer's certificate of registration number.

(B) Records of machines provided must be made and maintained for inspection by the department as specified in subsection (cc) of this section.

(15) A person authorized to demonstrate and sell lasers in Texas must comply with the following.

(A) Maintain a log including:

(i) date of all demonstrations and sales of lasers performed in Texas;

(ii) name and address of the customer; and

(iii) customer's certificate of registration number unless the service provided is an initial demonstration as described in paragraph (12)(B) of this subsection.

(B) Prevent exposure of individuals to a laser except for healing arts purposes and unless a licensed practitioner of the healing

arts has authorized such exposure. This provision specifically prohibits the deliberate exposure of an individual for training, demonstrating, or other non-healing arts purposes.

(C) Demonstrate lasers on phantoms only.

(D) Document all tests required by this section when a demonstration of a laser involves exposure specifically and individually ordered by a practitioner.

(E) Records of demonstrations and sales must be made and maintained for inspection by the department as specified in subsection (cc) of this section.

(16) A person using loaner laser machines must comply with the following.

(A) For a person having a valid certificate of registration, loaner radiation machines may be used for up to 30 days. Within 30 days, the registrant must:

(i) notify the department of a change in the category of the machine type or type of use as specified in §289.231(11) of this title and as authorized in the certificate of registration; or

(ii) notify the department of any increase in the number of machines beyond those authorized by the certificate of registration in any machine type or type of use category.

(B) For a person who does not hold a valid certificate of registration, a loaner laser may be used for human use for up to 30 days, by or under the direction of a practitioner, before applying for a certificate of registration as specified in subsection (g) of this section. This does not include mobile services.

(k) Expiration of certificates of laser registration.

(1) Except as provided by subsection (m) of this section, a certificate of laser registration expires at 11:59 p.m. Central Time in the month and year stated in the certificate of laser registration.

(2) If a registrant does not submit an application for renewal of the certificate of laser registration as specified in subsection (m) of this section, as applicable, the registrant must, before the expiration date specified in the certificate of laser registration, terminate use of all lasers and laser services as specified in subsection (l) of this section.

(3) The expiration of the certificate of laser registration does not relieve the registrant of the requirements of this chapter.

(l) Termination of certificates of laser registration.

(1) When a registrant decides to terminate all activities involving laser or laser services authorized under the certificate of laser registration, the registrant must immediately:

(A) request termination of the certificate of laser registration in writing, signed by the LSO, owner, or a person authorized to act on behalf of the registrant; and

(B) submit to the department a record of the disposition of the laser, and, if applicable, include if the laser was transferred and to whom it was transferred.

(2) The registrant must pay any outstanding fees as specified in §289.204 of this chapter.

(m) Renewal of certificate of laser registration.

(1) An application for renewal of a certificate of laser registration must be filed as specified in subsection (g)(1)(A) - (G) and (g)(2) of this section.

(2) If a registrant applies for a renewal before the existing certificate of laser registration expires, the existing certificate of laser registration does not expire until the application status has been determined by the department.

(n) Modification, suspension, and revocation of certificates of laser registration.

(1) The terms and conditions of all certificates of laser registration are subject to revision or modification.

(2) Any certificate of laser registration may be revoked, suspended, or modified, in whole or in part for:

(A) any materially false statement in the application or any false statement of fact required by the Act;

(B) information received by the department indicating a certificate of laser registration should not be issued;

(C) violation of, or failure to observe any of the terms and conditions of the Act, this chapter, or of the certificate of laser registration, or order of the department or a court; or

(D) existing conditions threatening occupational safety, public health and safety, or the environment.

(3) Except in cases in which occupational and public health or safety requires otherwise, a registrant will be notified, in writing, of the department's intent to suspend or revoke a certificate of registration and be provided an opportunity to demonstrate compliance before proceedings to suspend or revoke begin.

(o) LSO qualifications. LSO qualifications must be submitted to the department and include:

(1) education related to laser radiation safety or a laser safety officer course; or

(2) experience in the use and familiarity of the type of equipment or services registered; and

(3) knowledge of potential laser radiation hazards, laser emergency situations, and the appropriate response to an injury.

(p) LSO duties. The LSO must:

(1) ensure users of lasers are trained in laser safety, as applicable for the class and type of lasers used;

(2) assume control and have the authority to institute corrective actions to include the shutdown of operations, when necessary, in emergencies or unsafe conditions;

(3) specify whether any changes in control measures are required after:

(A) any service and maintenance of lasers affecting the output power or operating characteristics; or

(B) a deliberate modification is made that could change the laser class and affect the output power or operating characteristics;

(4) ensure maintenance and other practices required for the safe operation of the laser are performed;

(5) ensure the proper use of protective eyewear and other safety measures; and

(6) ensure compliance with the requirements in this section, the conditions of the certificate of laser registration, and any engineering or operational controls specified by the registrant.

(q) Requirements for protection against Class 3B or Class 4 lasers and IPL device radiation. These requirements are for Class 3B

or Class 4 lasers and IPL devices in their intended mode of operation and include special requirements for service, testing, maintenance, and modification. During some operations, certain engineering controls may be inappropriate. When an engineering control may be inappropriate, for example, during medical procedures or surgery, the LSO must specify alternate controls to obtain equivalent safety protection.

(1) MPE. A registrant or user of any laser may not permit any individual to be exposed to levels of laser or collateral radiation higher than are specified in ANSI and 21 CFR §1040.10, respectively.

(2) Instructions to personnel. Personnel using a laser must be provided with written instructions for safe use, including clear warnings and precautions to avoid possible exposure to laser and collateral radiation more than the MPE, as specified in ANSI and the collateral limits listed in 21 CFR §1040.10. The instructions to personnel must be maintained as specified in subsection (cc) of this section for inspection by the department.

(3) Engineering controls.

(A) Protective housing.

(i) Each laser must have a protective housing preventing human exposure during the operation to laser and collateral radiation that exceeds the limits of Class 1 lasers as specified in ANSI and 21 CFR §1040.10, if human exposure is not necessary for the laser to perform its intended function.

(ii) If human exposure to laser radiation levels more than the limits of Class 1 is necessary, these levels must not exceed the limits of the lowest laser class required to perform the intended function.

(B) Safety interlocks.

(i) A safety interlock ensuring radiation is not accessible above MPE limits as specified in ANSI must be provided for any portion of the protective housing that, by design, can be removed or displaced during normal operation or maintenance, and thereby allows exposure to radiation above the MPE limits.

(ii) Adjustment during operation, service, testing, or maintenance of a laser containing interlocks must not cause the interlocks to become inoperative or the radiation to exceed MPE limits outside protective housing except where a laser controlled area as specified in subparagraph (E) of this paragraph is established.

(iii) For pulsed lasers, interlocks must be designed to prevent the firing of the laser; for example, by dumping the stored energy into a dummy load.

(iv) For continuous wave lasers, the interlocks must turn off the power supply or interrupt the beam; for example, by using shutters.

(v) An interlock must not allow automatic accessibility of radiation emission above MPE limits when the interlock is closed.

(vi) Either multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing upon interlock failure must be provided if failure of a single interlock would allow the following:

(I) human exposure to levels of laser radiation more than the accessible emission limit of FDA Class 3a laser radiation; or

(II) laser radiation more than the accessible emission limits of Class 2 emitted directly through the opening created by removing or displacing that portion of the protective housing.

(C) Viewing optics and windows.

(i) All viewing ports, viewing optics, or display screens included as an integral part of an enclosed laser or laser product must incorporate suitable means such as interlocks, filters, or attenuators to maintain the laser radiation at the viewing position at or below the applicable MPE as specified in ANSI and the collateral limits listed in 21 CFR §1040.10, under any conditions of operation or use of the laser.

(ii) All collecting optics, such as lenses, telescopes, microscopes, or endoscopes, intended for viewing use with a laser must incorporate suitable means such as interlocks, filters, or attenuators to maintain the laser radiation transmitted through the collecting optics to levels at or below the appropriate MPE, as specified in ANSI. Normal or prescription eyewear is not considered collecting optics.

(D) Warning systems. Each Class 3B or Class 4 laser or laser product must provide visual or audible indication during the emission of accessible laser radiation. In the case of Class 3B lasers, except those only allowing access to less than 5 milliwatt (mW) peak visible laser radiation, and Class 4 lasers, the indication must be sufficient before emission of such radiation to allow appropriate action to avoid exposure. Any visual indicator must be visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than two meters, both laser and laser energy source must incorporate visual or audible indicators. The visual indicators must be positioned so viewing does not require human exposure to laser radiation more than the MPE, as specified in ANSI.

(E) Controlled area. With a Class 3B laser, except those only allowing access to less than 5 mW visible peak power, or Class 4 laser, a controlled area must be established when exposure to the laser radiation more than the MPE, as specified in ANSI or the collateral limits listed in 21 CFR §1040.10, is possible. The controlled area must meet the following requirements, as applicable.

(i) The area is posted with hazard signs as required by subsection (u) of this section.

(ii) Access to the controlled area is restricted.

(iii) For Class 4 indoor controlled areas, latches, interlocks, or other appropriate means are used to prevent unauthorized entry into controlled areas.

(I) Such measures are designed to allow rapid exit by laser personnel and allow admittance to the controlled area for emergency personnel. For such emergency conditions, a control-disconnect switch or equivalent device (panic button) must be available for deactivating the laser.

(II) Where safety latches or interlocks are not feasible or are inappropriate, for example, during medical procedures, such as surgery, the following applies.

(-a-) All authorized personnel are trained in laser safety, and appropriate PPE is provided upon entry.

(-b-) A door, blocking barrier, screen, or curtains is used to block, screen, or attenuate the laser radiation at the entryway. The level at the exterior of these devices cannot be more than the applicable MPE, as specified in ANSI.

(-c-) Within the laser controlled area, there is a visible or audible signal indicating the laser is energized and operating at Class 4 levels. A lighted laser warning sign, flashing light (visible through laser protective eyewear), and other appropriate signage are methods to accomplish this requirement.

(iv) For Class 4 indoor controlled areas, during tests requiring continuous operation, the person in charge of the controlled area is permitted to momentarily override the safety interlocks to allow access by other authorized personnel if it is evident there is no optical radiation hazard at the point of entry, and if the necessary protective devices are being worn by the entering personnel.

(v) For Class 4 indoor controlled areas, optical paths (for example, windows) from an indoor facility must be controlled to reduce the transmitted values of the laser radiation to levels at or below the appropriate ocular MPE, as specified in ANSI and the collateral limits listed in 21 CFR §1040.10. When the laser beam must exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the operator is responsible for ensuring air traffic is protected from any laser projecting into navigable air space (contact Federal Aviation Administration (FAA) or other appropriate agencies, as necessary) or controlled ground space when the beam irradiance or radiant exposure is above the appropriate MPE, as specified in ANSI.

(vi) When the removal of panels or protective covers or overriding of interlocks becomes necessary, such as for servicing, testing, or maintenance, and accessible laser radiation exceeds the MPE, as specified in ANSI and the collateral limits listed in 21 CFR §1040.10, a temporary controlled area must be established and posted.

(4) Key control. Each Class 3B or Class 4 laser and IPL device must incorporate a key-actuated or computer-actuated primary control. The key must be removable, and the Class 3B or Class 4 laser or IPL device must not be operable when the key is removed. When the device is not being prepared for operation or is unattended, the key must be removed from the device and stored in a location away from the machine.

(r) Additional requirements for special lasers and applications.

(1) Infrared laser. The beam from a laser must be terminated in fire-resistant material, where necessary. Inspection intervals of absorbent material and actions to be taken in the event of degradation must be specified in the operating and safety procedures.

(2) Laser optical fiber transmission system.

(A) Laser transmission systems employing optical cables are considered enclosed systems with the optical cable forming part of the protective housing.

(B) Disconnection of a connector resulting in exposure to radiation more than the applicable MPE limits, as specified in ANSI and the collateral limits listed in 21 CFR §1040.10, must take place in a controlled area. Except for medical lasers whose manufacture has been approved by the FDA, the use of a tool is required for the disconnection of a connector for service and maintenance purposes when the connector is not within a secured enclosure. All connectors must bear the appropriate label or tag as specified in subsection (u)(3) of this section.

(s) Additional requirements for safe operation.

(1) Eye protection. Protective eyewear must be worn by each individual exposed to laser radiation from IPL, Class 3B, or Class 4 levels of laser radiation. Protective eyewear devices must meet the following requirements:

(A) provide a comfortable and appropriate fit all around the area of the eye;

(B) be in proper condition to ensure the optical filter and holder provide the required optical density or greater at the desired wavelengths, and retain all protective properties during its use;

(C) be suitable for the specific wavelength of the laser and be of optical density adequate for the energy involved;

(D) have the optical density or densities and associated wavelength permanently labeled on the filters or eyewear; and

(E) be examined, at intervals not to exceed 12 months, to ensure the reliability of the protective filters and integrity of the protective filter frames. Unreliable eyewear must be discarded. Documentation of the examination is required to be maintained as specified in subsection (cc) of this section for inspection by the department.

(2) Skin protection. When there is a possibility of exposure to laser radiation more than the MPE limits for skin as specified in ANSI the registrant must require the use of appropriate PPE.

(t) NHZ. Where applicable, in the presence of unenclosed Class 3B and Class 4 laser beam paths, an NHZ must be established. If the beam of an unenclosed Class 3B and Class 4 laser is contained within a region by adequate control measures to protect personnel from exposure to levels of radiation more than the MPE, as specified in ANSI, that region is the NHZ. The NHZ may be determined by information supplied by the laser manufacturer, by measurement, or by using the appropriate laser range equation or other equivalent assessment.

(u) Hazard signs, labels, and posting for lasers and IPL devices.

(1) General requirements. Except as otherwise authorized by the department, signs, symbols, and labels prescribed by this section must use the design and colors as specified in paragraph (3) of this subsection.

(2) Posting. The laser controlled area must be conspicuously posted with a sign or signs as specified in paragraph (3) of this subsection.

(3) Labeling lasers and posting laser facilities. All signs and labels associated with Class 2, 3a, 3B, and 4 lasers must contain the following wording or sign posting requirements found in ANSI.

(A) Danger sign.

(i) The signal word "DANGER" indicating death or serious injury will occur if required control measures are not implemented to mitigate the hazards within the laser controlled area. This signal word is restricted to those Class 4 lasers with high (e.g., multi-kilowatt) output power or pulse energies with exposed beams.

(ii) The danger sign must include:

(I) The signal word "DANGER" in white letters on a rectangular safety red background placed at the top of the sign.

(II) "Class 4 Laser Controlled Area."

(III) "Avoid eye or skin exposure to direct or scattered radiation."

(IV) "Laser eye protection required," and include:

- (-a-) optical density;
- (-b-) laser type;
- (-c-) wavelength; and
- (-d-) wattage.

(iii) The safety alert symbol must precede the signal word.

(I) The base of the symbol must be on the same horizontal line as the base of the letter of the signal word.

(II) The height of the safety alert symbol must be equal to or exceed the signal word letter height.

(III) The words "Avoid eye or skin exposure to direct or scattered radiation" must appear to the right of the safety alert symbol.

(iv) The following sign meets the requirements of this subparagraph.

Figure: 25 TAC §289.301(u)(3)(A)(iv)

(B) Warning sign.

(i) The signal word "WARNING" must be used with all signs and labels associated with lasers and laser systems whose output is more than the applicable MPE for irradiance, including all Class 3B and most Class 4 lasers and laser systems.

(ii) The warning sign must include:

(I) The signal word "WARNING" in black letters on a rectangular orange background placed at the top of the sign.

(II) "Class 4 Laser Controlled Area."

(III) "Avoid eye or skin exposure to direct or scattered radiation."

(IV) "Do not enter when light is illuminated."

(V) "Laser eye protection required," and include:

- (-a-) optical density;
- (-b-) laser type;
- (-c-) wavelength; and
- (-d-) wattage.

(iii) The safety alert symbol must precede the signal word.

(I) The base of the symbol must be the same horizontal line as the base of the letter of the signal word.

(II) The height of the safety alert symbol must be equal to or exceed the signal word letter height.

(III) The words "Avoid eye or skin exposure to direct or scattered radiation" must appear to the right of the safety alert symbol.

(iv) The following sign meets the requirements of this subparagraph.

Figure: 25 TAC §289.301(u)(3)(B)(iv)

(C) Caution sign.

(i) The signal word "CAUTION" must be used with all signs and labels associated with Class 2 and Class 2M lasers and laser systems not more than the applicable MPE for irradiance.

(ii) The caution sign must include:

(I) The signal word "CAUTION" in black letters on a rectangular yellow background placed at the top of the sign.

(II) "Class 2M Laser In Use."

(III) "Do not stare into beam or view directly with optical instruments," and include:

(-a-) optical density, if provided by the manufacturer;

- (-b-) laser type;
- (-c-) wavelength; and
- (-d-) wattage.

(iii) The safety alert symbol must precede the signal word.

(I) The base of the symbol must be on the same horizontal line as the base of the letters of the signal word.

(II) The height of the safety alert symbol must be equal to or exceed the signal word letter height.

(III) The words "Do not stare into beam or view directly with optical instruments" must appear to the right of the safety alert symbol.

(iv) The following sign meets the requirements of this subparagraph.
Figure: 25 TAC §289.301(u)(3)(C)(iv)

(D) Lasers, except a laser used in the practice of medicine or veterinary medicine, must have a label in close proximity to each aperture emitting accessible laser or collateral radiation in excess of the limits specified in ANSI and the collateral limits listed in 21 CFR §1040.10, labeled with the following as applicable:

(i) "AVOID EXPOSURE - Laser radiation is emitted from this aperture," if the radiation emitted through the aperture is laser radiation;

(ii) "AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture," if the radiation emitted through the aperture is collateral radiation; or

(iii) "AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture," if the radiation emitted through the aperture is collateral x-ray radiation.

(E) Each defeatable or non-interlocked portion of the protective housing or enclosure designed to be displaced or removed during normal operation or servicing that permits human exposure to laser or collateral radiation must have the following label:

(i) for Class 3B accessible laser radiation, the wording, "DANGER - LASER RADIATION WHEN OPEN. AVOID DIRECT EXPOSURE TO BEAM";

(ii) for Class 4 accessible laser radiation, the wording, "DANGER - LASER RADIATION WHEN OPEN. AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION"; or

(iii) for collateral radiation more than the emission limits as specified in 21 CFR §1040.10, "CAUTION - HAZARDOUS ELECTROMAGNETIC RADIATION WHEN OPEN" and "CAUTION - HAZARDOUS X-RAY RADIATION" as applicable.

(F) For protective housing or enclosures providing a defeatable interlock, the words "and interlock defeated" must be included in the labels as specified in subparagraph (E)(i) and (ii) of this paragraph.

(G) Other required information.

(i) The word "invisible" must immediately precede the word "radiation" on labels and signs required by this subparagraph for wavelengths of laser and collateral radiation outside of the range of 400 to 700 nm.

(ii) The words "visible and invisible" must immediately precede the word "radiation" on labels and signs required by this subparagraph for wavelengths of laser and collateral radiation both within and outside the range of 400 to 700 nm.

(H) Labels and signs required by this subparagraph must be clearly visible, legible, and permanently attached to the laser or facility.

(4) In lieu of the requirements in paragraphs (1) - (3) of this subsection, the department will accept labeling and signage as specified by:

(A) 21 CFR §1040.10;

(B) ANSI; and

(C) IEC standards 60825-1 and 60601-2-22.

(v) Surveys. Each registrant must conduct surveys necessary to comply with this section and maintain records of the surveys as specified in subsection (cc) of this section for inspection by the department. Surveys must be performed at intervals not to exceed 12 months, and include:

(1) a determination if all laser and IPL protective devices are labeled correctly, functioning within the design specifications, and properly chosen for lasers and IPL devices in use;

(2) a determination if all warning devices are functioning within their design specifications;

(3) a determination if the controlled area is properly controlled and posted with accurate warning signs as specified in subsection (u) of this section;

(4) a re-evaluation of potential hazards from surfaces associated with beam paths; and

(5) additional surveys to evaluate the primary and collateral radiation hazard incident to the use of lasers and IPL devices.

(w) Records or documents. Each registrant must maintain current records or documents required by this subsection as specified in subsection (cc) of this section for inspection by the department.

(x) Measurements and instrumentation. Each determination requiring a measurement for compliance with this section must use instrumentation calibrated and designed for use with the laser or IPL device to be tested. Records of measurements and instrumentation must be maintained as specified in subsection (cc) of this section.

(y) Notification of injury other than a medical event.

(1) Each registrant of Class 3B or Class 4 lasers or user of an IPL device must immediately seek appropriate medical attention for the injured individual and notify the department by telephone of any injury involving a laser possessed by the registrant or an IPL device, other than intentional exposure of patients for medical purposes, that has or may have caused:

(A) an injury to an individual involving the partial or total loss of sight in either eye; or

(B) an injury to an individual involving intentional perforation of the skin or other serious injury excluding eye injury.

(2) Each registrant of Class 3B or Class 4 lasers or user of an IPL device must, within 24 hours of the discovery of an injury, notify the department of any injury involving a laser possessed by the registrant or IPL device possessed by a user, as applicable, other than intentional exposure of patients for medical purposes, that has or may have caused, or threatens to cause, exposure to an individual with second or third-degree burns to the skin or potential injury and partial loss of sight. Record of a notification of injury must be documented and maintained as specified in subsection (cc) of this section.

(z) Reports of injuries.

(1) Each registrant of Class 3B or Class 4 lasers or user of an IPL device must make a report, in writing, or by electronic transmittal, within 30 days to the department of any injury required to be reported as specified in subsection (y) of this section.

(2) Each report must describe:

(A) the extent of injury to each individual from radiation caused by lasers or IPL devices;

(B) power output of laser or IPL device involved;

(C) the cause of the injury; and

(D) corrective steps taken or planned to prevent a recurrence.

(3) A report filed with the department as specified in this subsection must include the full name of each individual injured and a description of the injury. The report must include personally identifying information in a separate part of the report.

(4) When a registrant or user of an IPL device is required, as specified in paragraphs (1) - (3) of this subsection, to report to the department any injury of an individual caused by radiation from a laser or IPL device, the registrant or user of an IPL device must notify the individual. The notice must be sent to the individual at the same time the report is sent to the department. Record of a report of injury must be documented and maintained as specified in subsection (cc) of this section.

(aa) Medical event.

(1) The registrant of a Class 3B or Class 4 laser or user of an IPL device must notify the department, by telephone or electronic transmittal, within 24 hours of the discovery of a medical event involving a Class 3B or Class 4 laser resulting in injury or death of a patient. Within 30 days after a 24-hour notification is made, the registrant of a Class 3B or Class 4 laser or the user of an IPL device must submit a written report to the department of the event. Record of a medical event must be documented and maintained as specified in subsection (cc) of this section.

(2) The written report must include:

(A) the registrant's or user's name;

(B) a brief description of the event;

(C) the effect on the patient;

(D) the action taken to prevent recurrence; and

(E) whether the registrant or user informed the patient or the patient's responsible relative or legal guardian.

(3) When a medical event occurs, the registrant or user must promptly investigate its cause, make a record for department review, and retain the records as specified in subsection (cc) of this section.

(bb) Reports of stolen, lost, or missing Class 3B or Class 4 lasers and IPL devices.

(1) Each registrant of Class 3B or Class 4 lasers or user of an IPL device must report to the department by telephone at (512) 458-7460, or email at RAMAssist@dshs.texas.gov, a stolen, lost, or missing laser or IPL device within 24 hours after its occurrence becomes known to the registrant or IPL device user.

(2) Each person required to make a report as specified in paragraph (1) of this subsection must, within 30 days after making the telephone or email report, make a written report to the department including:

(A) a description of the laser or IPL device involved, including the manufacturer, model, serial number, and class;

(B) a description of the circumstances under which the loss or theft occurred;

(C) a statement of disposition, or probable disposition, of the laser or IPL device involved;

(D) actions taken, or to be taken, to recover the laser or IPL device; and

(E) procedures or measures taken to prevent a recurrence of the loss or theft of lasers or IPL devices.

(3) Report of a stolen, lost, or missing Class 3B or Class 4 laser and IPL device must be maintained as specified in subsection (cc) of this section.

(cc) Record or document retention requirements for registration of a radiation machine. Each registrant must maintain the following records or documents at each site, including authorized records sites for mobile services at the time intervals specified for inspection by the department.

Figure: 25 TAC §289.301(cc)

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 November 27, 2024.

TRD-202405780

Cynthia Hernandez

General Counsel

Department of State Health Services

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For further information, please call: (512) 834-6655

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

**CHAPTER 517. FINANCIAL ASSISTANCE
SUBCHAPTER A. CONSERVATION ASSISTANCE**

31 TAC §517.3

Introduction

The Texas State Soil and Water Conservation Board adopts amendments to §517.3, concerning the use of conservation assistance funds. The amendment is adopted without changes to the proposed text as published in the *Texas Register* on September 6, 2024, (49 TexReg 6967) and will not be republished.

Justification for Rule Action

The amendment clarifies the allowable use of conservation assistance funds appropriated from the general revenue fund and

other sources. Specifically, the rule defines the conditions under which soil and water conservation districts may use these funds to reimburse indirect administrative expenses incurred through travel for official district business.

How the Rule Will Function

The adopted rule provides soil and water conservation districts with guidance on the permissible use of conservation assistance funds for indirect administrative expenses. It limits reimbursement to mileage and lodging costs incurred while attending meetings or events sponsored by the State Board or a local district, ensuring these expenses do not exceed the maximum allowable rates established by the General Appropriations Act for state travel. This enhances transparency and consistency in fund usage.

Summary of Comments

No comments were received regarding the proposed amendment.

Statutory Authority

The amendments are adopted under the Agriculture Code, Title 7, Chapter 201, §201.020, which authorizes the State Board to adopt rules necessary for performing its functions under the Agriculture Code.

No other statutes, articles, or codes are affected by this amendment.

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 November 26, 2024.

TRD-202405769

Heather Bounds

Government Affairs Specialist

Texas State Soil and Water Conservation Board

Effective date: December 16, 2024

Proposal publication date: September 6, 2024

For further information, please call: (254) 773-8225



31 TAC §517.10

Introduction

The Texas State Soil and Water Conservation Board (TSSWCB) adopts amendments to §517.10, concerning deadlines for claims for conservation assistance funds. The amendment is adopted without changes to the proposed text as published in the *Texas Register* on September 6, 2024, (49 TexReg 6968) and will not be republished.

Justification for Rule Action

The amendment establishes clear deadlines for soil and water conservation districts to submit claims for conservation assistance funds, ensuring efficient processing and proper allocation of resources. Exceptions to these deadlines may be granted by the State Board or the Executive Director with the Board's approval, allowing flexibility in unique circumstances.

How the Rule Will Function

The adopted rule provides guidance to districts on the timely submission of claims for conservation assistance funds. It ensures accountability and streamlines the administration of funding programs by setting firm deadlines and defining conditions under which exceptions may be granted. This will enhance the efficiency and consistency of the claims process.

No comments were received regarding the proposed amendment.

Statutory Authority

The amendments are adopted under the Agriculture Code, Title 7, Chapter 201, §201.020, which authorizes the State Board to adopt rules necessary for performing its functions under the Agriculture Code. No other statutes, articles, or codes are affected by this amendment. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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 November 26, 2024.

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For further information, please call: (254) 773-8225



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER M. LOCAL GOVERNMENT RELIEF FOR DISABLED VETERANS EXEMPTION

34 TAC §9.4323

The Comptroller of Public Accounts adopts amendments to §9.4323, concerning application, without changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8069). The rule will not be republished. The comptroller amends the section to add an option for supporting documentation provided with applications.

The comptroller adds new subsection (b)(2)(C) to provide an option allowing an applying city or county to provide certified documentation from an internal auditor or financial officer.

The comptroller received a comment regarding adoption of the amendment from Jessie Rahe, Comal County Auditor.

Ms. Rahe comments that Comal County agrees with the proposal to allow certification by the applicant's internal auditor or

financial officer because it will allow Comal County and other counties with December 31st year ends to apply for this exemption. The comptroller thanks Ms. Rahe for submitting this comment, which requires no change to the rule.

This amendment is adopted under Local Government Code, §140.011(i), which requires the comptroller to adopt rules necessary to implement Local Government Code, §140.011 (Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans).

This amendment implements Local Government Code, §140.011 (Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans).

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 November 26, 2024.

TRD-202405770

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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For further information, please call: (512) 475-2220

